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Law on Statistics Establishes Organs, Methods

91BA0741A Sofia DURZHAVEN VESTNIK in Bulgarian 29 Mar 91 pp 1-2

[Grand National Assembly Ukase No. 111 on the promulgation of the Law on Statistics]

[Text] In accordance with Article 84, paragraph 1, and Article 92, point 8, of the Constitution of the Bulgarian Republic, I hereby decree:

The publication in DURZHAVEN VESTNIK of the Law on Statistics adopted by the Grand National Assembly on 18 March 1991.

Issued in Sofia on 25 March 1991 and stamped with the state seal.

President of the Republic: Zhelyu Zhelev

Law on Statistics

Chapter 1. General Stipulations

Article 1. (1) The present law sets the statutes and activities of the statistical organs and their relations with juridical and physical persons in conducting statistical activities.

(2) Statistical activities encompass the gathering, processing, analyzing, storing, submitting and publishing of statistical information.

(3) Statistical activities are conducted by the National Statistical Institute, the territorial statistics bureaus and juridical and physical persons.

Chapter 2. National Statistics Institute

Article 2. The National Statistics Institute is a state institution which engages in statistical activities within the country and provides society with statistical information.

Article 3. The National Statistics Institute is a juridical person supported by the budget.

Article 4. (1) The National Statistics Institute is headed by a chairman and two deputy chairmen, who are elected and relieved from their duties by the National Assembly, for a 5-year term.

(2) The chairman of the National Statistics Institute:

1. Defines the structure and personnel of the National Statistics Institute and of the territorial statistics bureaus.

2. Opens territorial statistics bureaus.

3. Appoints the personnel of the National Statistics Institute and the heads of the territorial statistics bureaus.

Article 5. (1) Every year the chairman of the National Statistics Institute submits to the National Assembly for its approval a plan and accountability report on statistical studies. The National Assembly must also ratify a list of published statistical information.

(2) On the basis of the adopted plan, the chairman of the National Statistics Institute approves programs for statistical studies.

Article 6. The National Statistics Institute:

1. Collects and generates the necessary statistical information.

2. Develops, maintains and applies uniform national nomenclatures and classifications, consistent with the requirements of international standards.

3. Drafts analyses, projections and assessments relative to socioeconomic, demographic and other processes.

4. Publishes statistical information in general and specialized publications and mass information media.

5. Engages in scientific research.

6. Participates in determining the content and form of the annual accountability report and other documents used as sources of statistical information.

7. Develops and keeps national and local records and automated systems for the processing of statistical data, using modern computer and communication equipment and ensuring compatibility with international information systems.

8. Assists the state authorities and economic and other organizations in developing their own statistical information system, with a view to ensuring information compatibility.

9. Supervises the accuracy of statistical information and the observance of deadlines, methodology and other requirements concerning statistical information.

10. Organizes the enhancement of the skills of specialists engaged in statistical activities.

Article 7. The National Statistics Institute conducts statistical studies in accordance with the requirements and resolutions of statistical and other international organizations.

Article 8. Each 10 years or within shorter periods of time the National Statistics Institute conducts exhaustive censuses—demographic and agricultural—and, annually or over longer periods of time, other complete censuses as well as representative studies.

Article 9. The National Statistics Institute engages in international cooperation in the area of statistics through participation in the work of international organizations and institutes, as well as bilateral and multilateral agreements and contracts with similar organizations in other countries.

Article 10. National Statistical Archives will be established under the National Statistics Institute, with an automated information-referential bureau for services to consumers in the country and abroad. The procedure for servicing consumers will be defined by the Council of Ministers.

Article 11. (1) A Higher Statistical Council will be created under the National Statistics Institute, which will include scientists and specialists in the area of statistics and the information industry as well as representatives of the main users of statistical data.

(2) The Higher Statistical Council will be an advisory organ of the National Statistics Institute and will issue opinions, evaluations, and recommendations concerning the plan, programs and accountability of statistical studies, the structure of the National Statistics Institute, the areas of development of statistics and training programs for the training and retraining of statistical personnel.

(3) The chairman of the National Statistics Institute shall determine the membership of the Higher Statistical Council and issue regulations governing its activities.

Chapter 3. Territorial Statistics Bureaus

Article 12. (1) The territorial statistics bureaus are branches of the National Statistics Institute. They shall be developed in accordance with the administrative-territorial division of the country.

(2) The territorial statistics bureaus will carry out the functions and tasks of the National Statistics Institute in their respective territorial unit and secure the organization and functioning of local statistical information systems.

(3) The territorial statistics bureaus will engage in analyses and projections and publish statistical data.

Article 13. The personnel of the territorial statistics bureaus shall be appointed by the respective bureau managers.

Chapter 4. Rights and Obligations Related to Statistical Activities

Article 14. All juridical and physical persons must submit statistical information to the National Statistics Institute and the territorial statistics bureaus, on the basis of an approved plan and programs for statistical studies.

Article 15. The National Statistics Institute and the territorial statistics bureaus shall gather statistical information with the help of the following:

1. The mandatory participation of state organs and state officials;

2. Juridical and physical persons who will voluntarily participate or participate on the basis of contracts.

Article 16. The National Statistics Institute and the territorial statistics bureaus will engage in statistical studies also outside the approved plan, on the basis of contracts. The thus earned revenue shall be deposited in a nonbudgetary account and used for technical development, improvement of research, social needs, and training and additional incentives to the personnel.

Article 17. The National Statistics Institute and the territorial statistics bureaus shall submit to the respective consumers statistical information based on their studies, in accordance with the approved plan. Should additional research become necessary, relations among the parties shall be based on contracts.

Article 18. Statistical information pertaining to individual juridical and physical persons shall be used exclusively for statistical purposes.

Article 19. Officials who participate in implementation of statistical activities shall sign an oath of secrecy of statistical information.

Article 20. Juridical and physical persons engaged in statistical activities and in the development of information systems shall use concepts, nomenclatures and classifications compatible with those approved by the National Statistics Institute.

Chapter 5. Administrative-Penal Measures

Article 21. Anyone, who is legally obligated but who refuses to provide information or who violates the stipulated deadlines concerning statistical research conducted by the National Statistics Institute shall be penalized with a fine of 500 to 1,000 leva.

Article 22. Anyone legally obliged to provide information but who submit erroneous information, unless this constitutes a crime, shall be penalized with a fine of 1,000 to 1,500 leva.

Article 23. Anyone who illegally submits or disseminates individual statistical information pertaining to juridical or physical persons, unless this constitutes a crime, shall be fined from 1,000 to 2,000 leva.

Article 24. Any official who has access to individual statistical information and uses it for mercenary purposes, unless this constitutes a crime, shall be punished with a fine of 5,000 to 10,000 leva.

Article 25. (1) Penal resolutions on fines as per the present chapter shall be promulgated by the chairman of the National Statistics Institute or by his representative, on the basis of an act drawn up by officials of the National Statistics Institute and the territorial statistics bureaus.

(2) The drawing of such acts and the promulgation and appeal of penal resolutions shall be based on the stipulations of the Law on Administrative Violations and Penalties.

Additional and Concluding Stipulations

Only paragraph. The present law rescinds the Ukase on Penalties related to violations of statistical accountability (published in IZVESTIYA, No. 21, 1953; amended, No. 47, 1962; DV, No. 89, 1986).

This law was passed by the Grand National Assembly on 18 March 1991 and was stamped with the state seal.

For the chairman of the Grand National Assembly: Gin'o Ganev

Regulation on Structure, Staff of Interior Ministry

91BA0742A Sofia DURZHAVEN VESTNIK in Bulgarian No 15, 22 Feb 91 pp 15-16

["Text" of Regulation No. 20 of the Council of Ministers dated 13 February: "Defining the Basic Functions, Structure, and Strength of the Personnel of the Central Administration of the Ministry of Internal Affairs"]

[Text]

The Council of Ministers Hereby Decides That:

Article 1. The basic functions of the Ministry of Internal Affairs, in accordance with the addendum, are hereby defined.

Article 2. The overall strength of the personnel of the central administration [*administratsiya*] of the Ministry of Internal Affairs is hereby defined: 507, including a general secretary and three secretaries; 278 officers and 85 sergeants, based on the Law on Universal Military Service; and 224 civil administrators.

Article 3. (1) The structure of the Ministry of Internal Affairs will be improved through the established strength of the ministry's personnel by:

1. The creation of a Central Service for the Struggle Against Organized Crime, the Drug Trade, and Arms Trade, under the Ministry of Internal Affairs, with the status of a directorate [*upravlenie*], in accordance with the Law on the People's Militia;

2. The personnel directorate will be reorganized, together with the inspectorate directorate of the Ministry of Internal Affairs, into the Personnel service [*sluzhba*] and Inspectorate service of the Ministry of Internal Affairs, with the status of a directorate, in accordance with the Law on Universal Military Service;

3. A Contractual-Legal Directorate [*direktsiya*] will be created, with the status of a directorate, according to the Law on Universal Military Service;

4. Before 1 March 1991, the minister of justice and the minister of internal affairs, in coordination with the Prosecutor General's Office, must submit a draft legal act on the establishment of a unified investigative system by the Ministry of Internal Affairs;

5. Before 1 March 1991, the minister of internal affairs must submit to the Council of Ministers a draft law on the reorganization of the troops of the Ministry of Internal Affairs for the protection of the state borders and public order into the autonomous ministry units Border Troops and Internal Troops.

(2) The minister of internal affairs must approve the basic functions, structure, and tasks of the newly created ministry units.

Article 4. Grants the status of juridical person to the National Service for the Defense of the Constitution; the People's Militia; the National Fire-Fighting Service; the Central Service for the Struggle Against Organized Crime, the Drug Trade, and Arms Trade; the Troops Directorate of the Ministry of Internal Affairs; and the Sofia and regional directorates of the Ministry of Internal Affairs.

Concluding Stipulations

1. Point 2 of Regulation No. 52 of the Council of Ministers Bureau of 1979 is repealed.

2. The present regulation shall become effective as of 1 February 1991.

[signed] Dimitur Popov,
Chairman of the Council of Ministers
Pancho Burkalov,
Secretary-General of the Council of Ministers

Appendix to Article 1

Main Function of the Ministry of Internal Affairs

Article 1. (1) The Ministry of Internal Affairs, henceforth referred to as "the ministry," is the specialized state organ for safeguarding the security, public order, and rights and freedoms of the citizens, and the material and cultural values of society.

(2) The minister of internal affairs will provide the overall leadership and coordination of the overall activities of the ministry's organs.

Article 2. (1) The Ministry of Internal Affairs will implement the following functions through its organs:

1. Ensure the security of the country and protect the constitutionally established social system in the Bulgarian Republic;

2. Maintain public order and protect the rights and legitimate interests of the citizens and organizations, participate in the struggle against crime, and assist in the establishment of legality in the country;

3. Struggle against organized crime, the drug trade, and the illegal arms trade;

4. Protect the state border and control the observance of passport-border regulations;

5. Protect the property, life, and health of the citizens and cultural values from fires, natural disasters, and related dangers;

6. Control and help ministries and departments in organizing the protection of state secrets;

7. Gather, process, store, and provide information for the defense of security, public order, and the prevention of and punishment of crimes by state organs, under the conditions and procedures stipulated by the law.

(2) The ministry will perform other functions, as well, as assigned by law or Council of Ministers resolution.

Amendment to Interior Ministry Regulation

91P20390A Sofia DURZHAVEN VESTNIK in Bulgarian No 47, 14 Jun 91 p 4

["Text" of Regulation No. 102 of the Council of Ministers dated 31 May 1991 to amend and supplement Regulation No. 20 dated 13 February (DURZHAVEN VESTNIK No. 15, 22 Feb 91)]

[Text]

The Council of Ministers Hereby Decides That:

1. Item 4 of Section 1 of Article 3 should be modified as follows: "4. The Service for Materiel and Technical Support and Social Services will be created with the status of a directorate, in accordance with the Law on Universal Military Service."

2. In Article 4, after the words "the Ministry of Internal Affairs," the following phrase should be added: "the Service for Materiel and Technical Support and Social Services."

[signed] Dimitur Popov,
Chairman of the Council of Ministers
Ivan Minev,
Secretary-General of the Council of Ministers

Constitutional Court Decision on Privacy Rights

91CH0650A Budapest MAGYAR KOZLONY in Hungarian No 30, 13 Apr 91 pp 805-814

[Constitutional Court Decision No. 15-AB of 13 April]

[Text]

FOR THE HUNGARIAN REPUBLIC!

Based on a petition seeking judicial review of the constitutionality of certain legal provisions, the Constitutional Court announced the following:

DECISION

The Constitutional Court finds that the collection and processing of personal data without a specific purpose for arbitrary future use is unconstitutional.

The Constitutional Court finds that a general and uniform personal identification mark (personal number) for unrestricted use is unconstitutional.

The Constitutional Court finds that Decree with the Force of Law No. 10 of 1986 concerning the state census, and Council of Ministers decrees Nos. 25-MT of 8 July 1986 and 102-MT of 3 July 1990 implementing the above Decree with the Force of Law are unconstitutional and therefore declares the Decree with the Force of Law and the implementing decrees null and void.

The invalidated provisions shall lose force on 31 December 1991, except for the following, which shall lose force on the day this Decision is published in MAGYAR KOZLONY:

In the Decree with the Force of Law the second sentence of Paragraph 4; the second and third partial sentences of Paragraph 6 Section (2); Paragraph 6 Section (3); the second sentence of Paragraph 7 Section (1); the expressions "unless otherwise provided by law, or just interest" and "or with his statement" in Paragraph 7 Section (2); Paragraph 7 Section (4); and the words "in the Decree with the Force of Law or in the Council of Ministers decree" in Paragraph 10 Section (3).

Accordingly, between the date on which this Decision is published and 31 December 1991, Paragraph 4, Paragraph 6 Section (2), Paragraph 7 Sections (1) and (2), and Paragraph 10 Section (3) shall remain in effect with the following texts:

"Paragraph 4 State census records shall contain the citizens' personal numbers, their basic data suitable for personal identification and their addresses."

"Paragraph 6 Section (2). Computerized records which also contain personal numbers and personal identification data shall be utilized as identifying data."

"Paragraph 7 Section (1). The state census shall provide data to private persons and, for the performance of their functions, to organizations."

"Paragraph 7 Section (2). A private person may request the provision of data or the preparation of a document based on state census data concerning another person if the private person seeking such information has a right to do so. The applicant shall provide documentary evidence of such right."

"Paragraph 10 Section (3). Data pertaining to the person of a citizen or to his family or other circumstances shall be publicized only with the concurrence of the affected citizen, or in cases provided for by law."

The Constitutional Court orders the publication of this Decision in MAGYAR KOZLONY.

ARGUMENT

I.

Petitioner challenged in their entirety the Decree with the Force of Law No. 10 of 1986 (hereinafter: TVR) and the two implementing Decrees Nos. 25-MT of 8 July 1986 and 102-MT of 3 July 1990 on grounds that these were repugnant to the constitutional right to the protection of personal data (Paragraph 59 of the Constitution). Petitioner asked that the three laws be declared null and void.

Petitioner argued that the TVR has failed to satisfy the requirement established in both the Constitution and in Law No. 11 of 1987 concerning legislation (hereinafter: Legislative Law) according to which fundamental rights must be governed by legislative enactments, and that therefore the TVR as a whole was unconstitutional. Petitioner also claimed that the TVR mandated the release of data by delegating to the Council of Ministers authority to determine the type of data to be provided; this authorization failed to specify the subject and framework of the authority granted. Thus the Council of Ministers was, in fact, regulating fundamental rights and duties, a matter it cannot be authorized to do. The petitioner also claimed that the fact that a Council of Ministers Decree determined the recipients to whom data if to be provided on a mandatory basis was unconstitutional. These recipients determine people's rights and duties based on the use of such data, at the same time, however, the protection of personal data cannot be guaranteed in the hands of the recipients.

II.

Paragraph 59 Section (1) of the Constitution provides that every person in the Hungarian Republic shall be entitled to a good reputation, to the inviolability of the private residence and to the protection of private secrets and personal data.

Based on the precedent established in Decision No. 20-AB of 1990, the Constitutional Court does not regard the right to the protection of personal data as a traditional right to protection, but in due regard to the active aspects of this matter, as a person's right to make autonomous decisions concerning the release and conveyance of his own personal data.

Accordingly, the substance of the right to protect personal data as provided for in Paragraph 59 of the Constitution is individual dispositional authority over the revelation and use of one's own personal data. In general, personal data may be recorded and used only with the consent of the affected person; the entire path of data processing must be made understandable and controllable by everyone, i.e., everyone has the right to know who uses his personal data at what time and for what purpose. On an exceptional basis a legislative enactment may mandate the release of personal data, and a legislative enactment may also prescribe the method in which such data shall be used. Such law would restrict the fundamental right to make an independent decision, and would be constitutional if it complied with the requirements established in Paragraph 8 of the Constitution.

Irrespective of the process to be applied, any law which pertains to the recording, collection, storing, arrangement, conveyance, publicizing or changing of personal data, or which impedes the further use of data or the generation of new information from data (hereinafter: personal data processing or: data processing) will comply with the requirements established in Paragraph 59 of the Constitution only if it contains guarantees that the affected person will be able to follow the path of processing and that he will be able to enforce his rights. Accordingly, legal institutions which serve this purpose must secure the affected person's consent to the processing of data, and must contain precise guarantees with respect to exceptional cases in which personal data processing may be pursued without the consent (perhaps without the knowledge) of the affected person. These legal guarantees must, among other matters, confine the flow of data within objective limits in order to be able to control such flow.

An established purpose is the condition for, and at the same time the most important guarantee of exercising the right to make an independent decision. This means that personal data may be processed only for an established and legitimate purpose. Every phase of personal data processing must comply with its stated, and from the standpoint of the public, credible purpose. The purpose of the processing of personal data must be stated to the affected person in terms which enable that person to judge the manner in which the processing of his personal data affects his rights, and so that the affected person is able make a reasoned decision concerning the release of his data; and further, in a manner that the affected person may enforce his rights in the event that his personal data is used for a purpose different than what has been stated. For the same reason affected persons must be notified if the purpose of processing personal data changes. Processing personal data for a new purpose without the consent of the affected person may be consistent with law only if a legislative enactment expressly grants permission with respect to specific data and to a specific data processor. It then follows from the "established purpose" concept that the collection and storage of data without an established purpose, "for storage purposes," or for undefined future use is unconstitutional.

The other fundamental guarantee is the limitation of the conveyance of data and of the publicizing of data.

In its narrower sense, data conveyance means the provision of access to data for a certain third person by the personal data processor. Publicizing personal data means that any third person may familiarize himself with the data. Persons commissioned by the personal data processor to perform the strictly construed physical or computer functions of personal data processing on behalf of the personal data processor, usually as part of a profession or in a businesslike manner, must not be regarded as "personal data processors," and the access to data granted to such persons must not be regarded as "conveyance of data." The responsibilities of such commissioned persons must be regulated separately, leaving untouched the full responsibility of the data processor for the data he himself processed, or had processed by someone else.

Access to personal data may be granted to third persons in addition to the affected person and to the original data processor, and to thus interconnect data processing systems, only if all the conditions permitting the conveyance of data prevail with respect to each and every piece of information. Accordingly, this also means that the recipient of the conveyed data (the person requesting the data) must either be authorized by law to process the conveyed data, or must have the consent of the affected person. The requirement to have an established purpose, and further, the conditions for changing a purpose and for conveying data as described above also establish barriers to data conveyance among or within individual state administrative organs.

III.

The TVR subject to challenge is unconstitutional because it fails to satisfy the fundamental requirement of specifying an established purpose. Thus, in particular, the TVR:

—Fails to define the purpose of data processing.

—Fails to accurately define the type of pertinent data in this context.

—Enables the use of other unspecified records in addition to the services provided by the census.

—Fails to adequately secure the rights of affected persons. In particular, the TVR does not contain adequate guarantees to protect the affected person with respect to conditions governing the conveyance of data.

1. The definition provided in the TVR concerning the purpose of processing personal data and the kind of data involved is unconstitutional.

According to TVR Paragraph 1 Section (2), the function of the state census bureau is the collection and continuous recording of data required for a uniform basic personal record, and the supplying of data. According to TVR Paragraph 4, the record contains "basic personal identification and residential address data." (Thereafter, the TVR delegates the definition of such data to the Council of Ministers.) But TVR Paragraph 3 also mandates the supply of educational and professional qualifications data. These are the visible traces in the TVR of a concept for the establishment of an integrated personal data bank incorporating the broadest possible scope of data concerning citizens. Based on this concept, the subject of data would range from health characteristics through property records all the way to office affairs. This is why it was necessary to mandate the use of personal numbers in census records and in addition, in the framework of state administrative and adjudicative proceedings (Paragraph 6 Section (2)). This concept was part of the developmental ideas of the state census bureau even in the late 1980's. Plans for a similar integrated, central state record had to be dropped in the middle 1960's in the United States due to resistance manifested by society, and the same took place in France and in the Federal Republic of Germany during the 1970's. Problems brought to the surface by central data banks stimulated data protection legislation everywhere.

Data processing which lacks an established purpose, which cannot be categorized in advance based on various use purposes for lack of a defined purpose, which places any data at the disposal of users not defined in advance, and which is pursued "for storage purposes" is unconstitutional in and of itself. The lack of having an established purpose cannot be offset by providing guaranteed conditions for the conveyance of data. This is because establishing conditions for data conveyance and of having an established goal are not alternative guarantees of the right to make an independent decision, but are joint guarantees instead. The concept of having an established purpose must prevail beginning at the point when data is recorded, until the data is deleted. Accordingly, when it comes to a central integrated data bank which lacks a specific purpose, the constitutional problem cannot be resolved by enforcing only one of the constituent elements of the constitutional right to data protection, the established purpose concept, and only with respect to those who ask questions. This is so because a so-called legitimate data quality [as published] must prevail in every phase of processing. It would not suffice if only certain guarantees prevailed in individual phases of processing, and this condition would not remedy the unconstitutionality that prevailed in other phases of processing. For this reason, the provisions of Paragraph 5 Section (2) of Decree No. 25-MT of 8 July 1986 are insufficient. These provisions state that a person who requests and receives information contained in the census records may utilize such information only for the purpose designated in his request. This, otherwise self-evident duty of the requester, does not remedy the lack of the apprehensible purpose for maintaining population records, nor does it cure the shortcoming that also flows from this lack: the lack of continuity of purpose in the data conveyance phase and the lack of legitimacy for changing the purpose.

Independent from the per se constitutionality of conveying data, it comes as natural for a data processor who deals with data of an undefined scope to familiarize himself with the totality of, and the relationships between data pertaining to individual persons. This fact renders the persons whose data is on file entirely dependent, it permits insight into their private lives, and results in an unequal communication situation in which the affected person is unaware of what the data processor knows about him. So-called "personal profiles" composed of data which is necessarily taken out of its original context, and which in particular violates personal rights, and which constitutes a fundamental consideration in judging the legality of individual data processing endeavors, are necessary companions of data processing of an undefined scope. For all these reasons, this kind of data processing offends human dignity.

The Constitutional Court has not found a single constitutional right or interest that would render unavoidable the restriction necessarily imposed by data processing without an established purpose on the right to make an independent decision guaranteed by Paragraph 59. of the Constitution. Nor did it find any supportive argument of this restriction which is proportionate to the injury caused. In particular, the efficacy of state administration does not constitute such an interest, because one cannot prove that the data processing method which constitutes a grave affront to the right to make an independent decision is the sole available path for the state administration to function effectively and efficiently. Accordingly, the Constitutional Court holds that data processing systems which operate without an established purpose, for storage purposes are unconstitutional.

2. The most important legal provisions concerning the census are also unconstitutional if taken individually.

2.1 As defined in the TVR, the established purpose is fully inadequate in the context of a data processing system which affects the entire population of the country and which fundamentally determines the fate of personal data and the rights related to such personal data (see: personal number). (Paragraph 1 Section (1) of the TVR reads as follows: "To help citizens enforce their rights and perform their duties, and to assist the workings of social organizations, associations, and associations of private persons (hereinafter jointly: organizations).") This meaningless text is unsuitable for establishing a direction for, or limits to data processing, i.e. it is not suited to permit any discussion at all about conditioning data processing by having an established purpose. The wording of Paragraph 1 Section (2) according to which "the function of state census record keeping is to gather data needed for a uniform basic personal record system" confirms the intent of establishing a data processing

endeavor without an established purpose, for storage purposes, for the future satisfaction of "case related data needs," along with the regular provision of data to state organs, the scope of which is not defined in the TVR. (See TVR Paragraph 7 Section (3).)

2.2 The scope of data contained in the record is defined in TVR Paragraph 4. as follows: "State census records contain the citizen's personal number, fundamental identification data and his residential address. The scope of data to be recorded shall be determined by the Council of Ministers."

This authorization is unconstitutional. According to Paragraph 8 Section (1) of the Constitution legislative enactments must establish rules relative to basic rights and duties. The regulation of the processing of personal data has an obvious bearing on a fundamental right, the right to protect personal data as specified in Paragraph 59 of the Constitution; but even Paragraph 5 Section (1) of the Legislative Law included "personal registration" among matters subject to legislation. The legislation "pertaining" to the processing of personal data must enable everyone to determine without doubt which of the data pertaining to a person are covered by the legislation. Neither the purpose of state census record keeping, nor its function (Paragraph 1), nor the definition of the scope of data by law (Paragraph 4) in the framework of the challenged TVR is suitable for unequivocally limiting the scope of data to be recorded.

Considering the significance of census records, the data to be contained in those records should have been enumerated in full detail in the TVR's framework. Instead of doing so, however, the TVR delegated the definition of the data to be included in the record to the Council of Ministers, without even defining the scope of the authorization. This is so because the term "fundamental identification data" is not sufficiently accurate from the standpoint of providing a guarantee. In doing so, the TVR granted to the Council of Ministers freedom to act on the one hand, while on the other it failed to provide specific information to the persons affected. Incidentally, the TVR itself renders its own definition as impossible to interpret, when in Paragraph 3 it also requires the provision of data concerning educational background and professional qualifications. The implementing decree specifies that these types of data must be included in census records, even though the authorization granted in TVR Paragraph 4 cannot be interpreted to include such data in the census records. On the other hand, Decree No. 25-MT of 8 July 1986 exceeded even the broadest possible interpretation of TVR Paragraphs 3 and 4 when it required the recording of the personal numbers of fathers, mothers, children and spouses (Paragraph 1 Section (1) Subsection (O)). This is so because such data must not be included among the fundamental personal identification data of the affected persons. The succession of personal numbers will show even the most distant family relationships. Use of such data may constitute particularly severe violations of privacy rights, because it could yield and render usable correlations entirely independent from whether the affected person cultivates a given family relationship or if he knows about such relationship at all. Accordingly, the family tree program conceals similar dangers as the already mentioned personality profile.

Further, TVR Paragraph 5 Section (2) authorizes the minister of the interior to issue orders for the maintenance of separate records of persons who stay in certain locations specified in legal provisions. The goal, and the total failure to define the scope of persons covered by this provision also renders the content of this authorization unconstitutional.

Paragraph 7 Section (1) renders the seeming restrictions on the scope of data enumerated in the TVR ultimately senseless when it authorizes the census bureau "to utilize in the course of providing its services data obtained from other records—with the concurrence of the affected organizations." This provision is unconstitutional from the standpoints of both the scope of data and the linkage to an established purpose. This provision renders the state census data processing effort unlimited and at the same time uncontrollable for several reasons. First, at this place the TVR conditions the processing of data not by the consent of the affected persons, but by the agreement of the other data processor; second: it provides no rules regarding the requirement to delete the foreign data after it was used, nor does it say that such supplements must be recorded alongside the data of the affected person; third: state census data combined with other data may provide qualitatively new information about the person who does not become aware of the fact that data has been provided. Data contained in another record could be acquired and conveyed further in a constitutional manner only if this use of the data remained within the scope of the purpose of the original record, and would not become accessible to a constituency broader than what the original record keeping endeavor envisioned. Data that does not fit within the scope of state census activities must be deleted after conveyance, and the request for data and the fact of conveyance must be documented.

2.3 All effective provisions concerning data conveyance are unconstitutional.

The TVR establishes different conditions for providing data to "private persons" on the one hand, and to "organizations" on the other.

According to Paragraph 7 Section (2) a private person may request information about another person if he has a right to, or a legitimate interest to do so. The requester must verify such right or interest with a document or by his own statement. The state census bureau provides data to organizations "for the performance of their functions." (Paragraph 7 Section (1)) (Paragraph 1 defines "organizations" as state organs, business and social organizations, associations, as well as associations of private persons.)

These conditions for the supply of data do not adequately consider the affected person's right to the protection of personal data, instead they favor the person who requests the data and the organs of the census bureau. These provisions are unsuitable to serve even as a starting point for the fulfillment of the census bureau's obligation to protect a person's privacy (Paragraph 8).

According to TVR Paragraph 8 the release of data must be denied if doing so may violate a person's rights. This obligation should obviously be applied after the fulfillment of the objective criteria described in Paragraph 7, and was meant to serve as a subjective filter. But if the objective conditions—a "just interest" described verbally, and the "performance of the functions" of any kind of organization—do not satisfy the requirement of protecting a person's privacy rights, how could they serve as a starting point for the census bureau to evaluate whether the release or utilization of certain data violated the affected person's right to privacy? The terms "function" and "just interest" are equally incomprehensible, and there is no difference between the two. For example: the function of an enterprise is, (and the just interest of an enterprise is) to operate in a profitable manner. Could the state census bureau freely decide whether the release (in reality: the sale, because TVR Paragraph 9 mentions e.g. for advertising purposes) of the names and addresses of 10,000 persons of the same gender, who live in a given type of community and have a given level of education violated the privacy rights of these persons?

It should be obvious that consistent with the principle of protecting privacy rights, personal data should be released only for the performance of a "function" which is accurately defined, and whose performance warrants in a constructive manner that the risk related to the release of personal data be taken. In the judgment of the Constitutional Court the only organs which have functions like this are the state administrative organs and the judiciary. Accordingly, if the requester organ verified that it needed the data for the lawful performance of a function within its authority and jurisdiction, that verification also established a limit with respect to the kind of data it could request. If that organ also described the circumstances which guaranteed adherence to the established purpose and the security of data, and further, if the request for data was documented by the state census (also to the affected person), the data conveyance would have satisfied the objective conditions for protecting personal data. Thereafter it should still be examined whether the release of data should be denied on grounds of TVR Paragraph 8 In providing the above example the Constitutional Court wishes to convey the sense of the level of guarantees demanded by the right to make an independent decision, and to demonstrate its position according to which, short of such guarantees, TVR Paragraph 7 is unconstitutional.

It follows from the above that identical restrictive conditions must also be applied to the release of data to private persons and to "organizations" other than state administrative organs and the judiciary. In such instances the need to enforce the right to make an independent decision may be satisfied by permitting in general the state census bureau to release a home address based on a right (perhaps just interest) evidenced in writing. Let the private person obtain additional data from the affected person; if a right indeed exists he may do so even by way of court action. At the same time, the duty to examine requests for data, as established in Paragraph 8, also applies to this case: The state census bureau may refuse to release a residential address as a matter of protecting the affected person's rights.

The Constitutional Court intends to secure the constitutionally mandated protection of this right as long as the TVR is in force. In the present case the Court was able to do so by declaring null and void certain parts of the TVR to the effect that it discontinued the opportunity to release data to organizations not entitled to regularly receive data, while it tied the release of data to private persons to written verification of the related right. In principle, the Constitutional Court regards the release of a name and address as constitutional even if a just interest exists. But since invalidating legal provisions is the only means available to the Constitutional Court, it is unable to distinguish between various users and various methods of use relative to the data stored by the state census bureau. After invalidating the legal provisions specified in this Decision, a private person may seek the release of all presently stored information—i.e. not only a name and address—provided that he proves his right to do so in writing; beyond the release of such information the census bureau's evaluation based on Paragraph 8 is the only means by which the release of data can be restricted. It appeared as too risky for the Constitutional Court to rely on this uncertain defense relative to requests for data based on "just interest" and on the organizations' "functions."

According to TVR Paragraph 7 Section (3) decrees may prescribe the mandatory, regular release of data to certain organizations to enable these to perform their basic functions. These organizations were defined in the two implementing decrees. It should be obvious that from the standpoint of a constitutionally sound data conveyance method to organizations designated in the decrees—e.g. councils and ministries—the "basic function" criterion alone is insufficient. For this reason, and because the personal records maintained by autonomous local governmental bodies or ministries do not constitute a unit, and since the need to link the release of data to an established purpose also restricts exchange of information between various data processing endeavors within a single institution, legislation must specify the kind of data to be conveyed on a regular basis, and the record keeping systems which must receive the specified data on a regular basis.

In addition to the substantive unconstitutional aspects related to the conveyance of data, a procedural unconstitutionality with respect to related authorizations exists also in this instance: The Council of Ministers, and to an

even lesser extent a "decree" must not define regular, mandated recipients of data, and the scope of data to be provided.

2.4 The above described regulatory shortcomings gravely endanger the rights of the affected persons. Similarly, the guarantees expressly intended to protect privacy rights are insufficient to satisfy the standards of constitutionality.

The duty to protect privacy rights, as that has been assigned to the census bureau in TVR Paragraph 8, cannot be performed because the conditions for the conveyance of data prescribed in the TVR themselves violate privacy rights.

Further, the fact that Paragraph 10 Section (2) grants to the affected person a right to make corrections only is insufficient. Since it is the essence of the right to make an independent decision that the affected person has a right to know and to follow the ways and circumstances in which his personal data is used, the preliminary conditions for exercising this right must be established first. This means that the census bureau must be mandated to document each individual request for personal data it received, i.e. to whom, at what time and for what purpose such data has been released. The recorded use of records received from other sources (Paragraph 7 Section (1)) is also part of this matter. Documentation is also necessary because in case a correction takes place, such correction must be entered in all records which used the incorrect information. The rights of the affected person must be extended to include the opportunity to delete information from the records, in addition to correcting the information. For example, an affected person should be able to demand the deletion of information borrowed by the census bureau from some other record, if it failed to do so. All this necessitates of course that the affected person's right to review his personal record (Paragraph 10 Section (1)) be extended to include a review of the documentation, so that access to the documentation may not be denied on the basis of Paragraph 83 Section (2) of the Civil Code of Laws. This provision provides potential grounds for denying access to such documentation on grounds that such access would violate "state or public security interests."

According to the TVR, personal data may be publicized only in cases defined by legislative enactments and in Council of Ministers decrees (Paragraph 10 Section (3)). In the above context the general authorization granted to the Council of Ministers is also unconstitutional. The Constitutional Court notes that the state census bureau would have satisfied its obligation to protect privacy rights from the outset, had it conveyed or publicized personal data only if the function designated as the reason for requesting data could not be performed with the help of data which excluded the possibility of identifying individuals (anonymous data). Anonymous data can be of great help to autonomous local governments and to business organizations without endangering privacy rights whenever data concerning groups of people is sought for planning, statistical or business purposes.

Since the right to make an independent decision may be restricted in a constitutional manner only when such restriction is unavoidable, the protection of privacy rights satisfies the Constitution only if the affected person is able to prohibit the release of his data by the state census bureau. Instances which present "unavoidable situations" and justified exceptions from under the rule may be defined in the framework of legislation.

3. A general, uniform personal identification code which may be used without restriction (i.e. a personal number) distributed to every citizen and to every resident of the country based on an identical principle is unconstitutional.

TVR Paragraph 6 Section (2) states that "Personal numbers must be used as correlating data in computerized records which also contain personal data, such numbers must be entered into official documents and records, and further, must be used in the course of state administrative and judicial proceedings."

Based on a narrow interpretation of this Section personal numbers must be treated as correlating data in the census bureau computers and must be entered into state census documents and records. Under a broad interpretation, however, the use of personal numbers may apply to all kinds of official documents and records, and an even broader interpretation of Paragraph 6 would permit the use of personal numbers in all kinds of computerized records. These provisions exceed the scope of census operations anyway. Accordingly, the TVR provisions related to personal numbers may be misunderstood; as demonstrated in practice, the provisions were not suitable to unequivocally define the mandatory application of personal numbers.

But the possibility of misunderstanding is a mere consequence of the shortcoming which is far more significant from the standpoint of constitutional law: Paragraph 6 does not contain any restriction or condition whatsoever with respect to the use of personal numbers.

3.1 The personal number provided for in the TVR is a so-called universal, multipurpose identifier, which in principle may be used in any and all records. In contemplative discussions not closely tied to the TVR, but which were included as part of the arguments supportive of this Decision, the Constitutional Court used the term "personal number" with the above meaning. (The other kind of personal number is tied to the purpose of a given data processing system, and may be used as an identifier only within such a system, e.g. pension number, account numbers. These limited use personal numbers raise in part different problems relative to privacy rights. The actual legal problem implicit in the relationship between the two types of personal numbers is that the legislature could prevent the general use of personal numbers even if it was tied to an established purpose.)

The sense in having a uniform personal identification code is that it enables an easy and secure comparison and gathering of data pertaining to one and the same person with the help of a brief, from a technical standpoint easily manageable code which cannot be changed and cannot be confused with another code. Thus a personal number is the natural companion of all integrated record keeping systems; the idea of introducing such code emerged both in Hungary and abroad as part of plans to have large central data banks which store information. Further, a uniform personal code is eminently suited for the linking of personal data contained in various records to specific cases. Data becomes easily accessible, and may be mutually verified with the help of such codes. These technical advantages increase the efficiency of data processing based on personal numbers, and the related administration and service provisions. Similarly, personal numbers save time and money for the persons whose data is stored, because they render the repeated submission of data avoidable.

These advantages present grave risks from the standpoint of privacy rights, and in particular from the standpoint of the right to make an independent decision. Personal numbers present a particular threat to privacy rights. If data is acquired by "sparing" the affected person from having to deal with various data bases, the affected person will be excluded from the flow of data, and will be restricted in, or deprived of the possibility to control the path and use of his own personal data. This method conflicts with the fundamental principle of data protection which holds that data must be acquired from the affected person, with the knowledge of the affected person. The private sphere ceases to exist under the pervasive use of personal numbers, because a so-called personal profile may be produced from the most distant records generated for a variety of purposes. The personal profile is an artificial image which covers any part of the affected person's scope of activities, and which also penetrates into the intimate life of the affected person. At the same time, however, such personal profiles are very likely to be distorted because the data used has been taken out of context. And yet, data processors make decisions on the basis of such information, and produce and convey new information concerning persons. The large volume of connected data of which the affected person is unaware in most instances, creates an unequal situation insofar as communications are concerned. Any situation is humiliating in which one side is unable to learn about the kind of information his partner has. This renders free decision impossible. The power of a state administration which uses personal numbers increases immeasurably. If the use of personal numbers is also permitted outside of the state sphere, this fact not only grants more power over the affected person to the data processor outside the state sphere, but also leads to a further increase in state power: it extends even further the opportunity to exercise control on the basis of data. All this gravely endangers the freedom to make independent decisions and constitutes a threat to human dignity. Personal numbers whose use is unrestricted may become the means for total control.

Accordingly, the logic of personal numbers is contrary to the constituent elements of data protection: to the principle of having separate information systems tied to established goals, and to the main rule which holds that data must be obtained from the affected person with the knowledge and consent of the affected person. If followed consistently, the principles of data protection eliminate the sense of personal numbers because the "advantages" provided by such numbers cannot be taken advantage of.

Considering the methods by which data is processed today, the personal number is the technically most advantageous means for linking personal data in a reliable manner. Quite naturally, personal data may also be linked on the basis of names, and other identifiers that become necessary, such as the mother's maiden name or a person's address. Considering the capacity of present day computers, the extent of such identifiers would not create any particular problem. But "natural" data is subject to change (e.g. names change as a result of marriage or by changing names), and situations may occur in which further data becomes necessary; and further, in case of changing data (such as the residential address) it becomes necessary to follow and to maintain the data. The related difficulties and expenses present themselves as significant items in data processors' cost versus profit analyses, and these costs discourage unwarranted data collection prompted by having personal numbers on hand. The barriers flowing from the right to make an independent decision apply to all data collection and processing efforts. But the personal number demands special safeguards commensurate with the increased risks, precisely because of the technical perfection implicit in personal numbers. If personal data accessible through personal numbers is maintained by a central record keeping organization, the data processor—e.g. the census bureau—finds itself in a key position. For this reason the data processor must be subject to particularly specific rules which provide guarantees.

3.2 Accordingly, by virtue of its nature, the personal number presents a particular threat to privacy rights. It follows from the state's first class duty to protect fundamental rights (Constitution, Paragraph 8) that this risk must be reduced to a minimum: it must tie the use of personal numbers to rules which provide guarantees. This can be accomplished in two ways: the state could either restrict the use of personal numbers to specific data processing endeavors, or it could tie the permissibility to release information covered by personal numbers, and the linking of records which contain such information to strict restraining conditions and controls. At the same time we must recognize that as a result of restricting the uniform and general code in any manner, we also lose the essential purpose of such code. A limited

use personal number is no longer a personal number in the sense that this concept is used in the TVR.

3.3 The use of personal numbers varies greatly in different countries. A number of countries have de facto universal personal numbers. These resulted from identification codes originally used for specific purposes which then proliferated and enjoyed unimpeded application. These numbers were originally introduced to serve census or social security purposes. Belgium, Denmark, Iceland, Holland and Norway exemplify the first case, while Finland and Switzerland the latter case. The Swedish personal number is regarded as the text book example for universal personal numbers. Its original purpose was to assign numbers to birth records.

In other countries the use of personal numbers is prohibited, moreover, it is regarded as unconstitutional. A law enacted in Portugal in 1973 ordered the introduction of universal personal numbers beginning in 1975. In contrast, Paragraph 35 Section (2) of the 1976 Constitution promulgated after the collapse of the Fascist regime prohibited the linkage of data bases containing personal records, and Section (5) provided that "the assignment of a nationwide, uniform personal number to citizens shall be prohibited." In France and in the Federal Republic of Germany resistance against census records using personal numbers lead to the promulgation of the 1978 data protection laws, and at the same time to discontinuing integrated records and the personal number. The German Federal Constitution declared in 1969 already that "the registration and cataloging of the full personality of individual citizens" cannot be reconciled with the fundamental right to human dignity, and the state has no authority to pursue such endeavors even under the anonymous circumstances of statistical data collection (BVerfGE 27.1.6); and the so-called census judgment which in 1983 defined the right to make an independent decision, regarded the personal number as the "decisive step" by which personality profiles could be obtained, for the avoidance of which one must accept even other methods of restricting the right to make an independent decision (BVerfGE 65.1.27, 53, 57).

One finds other states whose practices fall between these two extremes. In these countries personal numbers are used for purposes other than the established purpose of these numbers, nevertheless these countries succeeded in preventing these numbers from becoming universal codes. (Thus, for example, the identification number assigned by the French National Economic Statistical and Research Center to every person born in France did not become a general personal number, and in a similar manner legal barriers were established in Canada with respect to the use of social security numbers.)

During the 1970's the threats presented by electronic data processing to the autonomy of the person became publicly known. From then on the personal number became the symbol of total control over citizens, and was regarded as an outlook which considered efficiency only, and which treated the person as an object. Even though the personal number is only a means and can be evaluated only in the total context of regulating data processing, its introduction and use enables it to play the role of clashing the two value judgments: technical feasibility on the one hand, and the primacy of the right to privacy on the other. These debates resulted in the establishment of a general requirement for the specific regulation and limitation by law of the use of personal numbers, and this process has also begun in countries which introduced personal numbers before awareness of the need to protect data evolved. (See: Report of Council of Europe, Expert Committee on the Protection of Data: "The Introduction and Use of Personal Identification Numbers: Issues Pertaining to the Protection of Data. Strasbourg, 15 December 1989.) Use of personal numbers would already be restricted by applying the general principles of data protection, as that is done with respect to any other personal data. According to this principle, a person must be legally authorized before he demands the release of a personal number; no one must suffer disadvantage for not having a personal number or for refusing to release his personal number. Personal numbers must not contain sensitive personal data (e.g. nationality, religion)—but a requirement that the personal number not become a "tell tale" number is gaining ground, i.e. that the personal number not include information such as date or place of birth. Laws must accurately circumscribe the use of personal numbers, and an independent commissioner charged with the protection of data must verify compliance with the law. In addition to establishing these general requirements, however, risks inherent in personal numbers must also be offset by applying separate safeguards. In Norway, for example, the establishment of records based on personal numbers is subject to a separate permit, and in regard to certain records Norway prohibits the use of personal numbers. Interface between records based on personal numbers must be subject to particularly strict conditions and controls, and such activities must be rendered transparent to the affected persons. These safeguards have been instituted for example by the Swedish office for data protection.

Safeguards related to personal numbers must also prevail in regard to other similar identifiers (e.g. personal identification documents, passports and authorization numbers), and with logical changes, in personal codes used in certain specialized fields (pension, social security numbers).

3.4 The present rules governing personal numbers are unconstitutional because TVR Paragraph 6 mandated, and elsewhere enabled the unlimited use of personal numbers by state organs without providing adequate safeguards against dangers inherent in the use of personal numbers.

Hungarian law enabled the rise of all threats implicit in the nature of personal numbers, when it failed to provide for any constraint regarding the use of personal numbers, and when it introduced personal numbers in a legal milieu in which the fundamental guarantees of the right

to protect data were unknown. (Only one partial issue was recognized from among these safeguards: the affected person's right to review his own personal data. This safeguard was taken out of its own context and therefore never prevailed.) The possibility of restricting the flow of data within the state administration was not even mentioned in official circles, at the same time, however, release of the personal number was established as a condition outside the state sphere for receiving services. Under such circumstances a multitude of records based on personal numbers was generated, often without the knowledge of the affected person. Interface between these records was unobstructed; no one knows by now who can have access to his personal data, and if so, where and when such access is possible.

Provisions related to privacy and the safeguarding of secrets, as those contained in the Civil Code of Laws and elsewhere, are insufficient with respect to the threats created in this manner. This is so, even though the 1977 amendments to the Civil Code of Laws included a general clause according to which computerized data processing must not violate privacy rights. These amendments also introduced the right of affected persons to make corrections, and prohibited the release of information to unauthorized persons (Civil Code of Laws Paragraph 83). But to this date no legal provision or court decision has provided a substantive meaning to the above mentioned general clause, or at the minimum, has specified the constituent elements of the right to make an independent decision or of the right to the protection of data. Thus the data processors are not constrained by the requirement of having to have an established purpose, nor are they restricted by the rules of entering or conveying data, and the affected persons are unable to learn of their rights. (Still today, the affected persons have no legally established opportunity to find out in what records they are included, and thus the exercise of the right to review is illusory.) Independent control over data processing has been missing altogether. Only the TVR contained more detailed rules for the flow and protection of personal data. These provisions, however, were inadequate from the standpoint of constitutional standards, as was shown in this Decision of the Constitutional Court. The above mentioned, and even generally insufficient safeguards are entirely unsuited to offset the peculiar risks inherent in the character of personal numbers. Neither the TVR, nor any other Hungarian law contains provisions intended to protect against the special dangers that attend the personal number, by either establishing conditions or controls for the use of such numbers or by enabling the control of such use.

Based on all of the above, laws now in force concerning the personal number are repugnant to the Constitution: they are contrary to the right to protect personal data (Constitution, Paragraph 59), and unnecessarily and disproportionately limit the exercise of that right.

3.5 It is the duty of the legislature to create an act concerning the protection of personal data and regarding accessibility to information of public concern, and further, to express the basic principles included in that legislative enactment in specific terms, in the framework of so-called area-specific legislative enactments. These legislative enactments must be consistent with Paragraphs 59 and 61 of the Constitution. It is the legislature's responsibility to decide whether to reintroduce with restrictions the personal number which in its present form is voided by the Constitutional Court, and if so, to decide the constraints to be applied and the specialized control mechanism to be developed. In the present case the Constitutional Court declares that the personal number is unconstitutional because the TVR has failed to include any limitation relative to the personal number. This, however, must not mean that just any kind of restriction would suffice to render the institution of personal numbers constitutional. For this reason the Constitutional Court summarizes the above detailed opinion with respect to limits within which a permanent personal identity code could be regarded as constitutional.

The Constitutional Court determines that by virtue of its essence the universal personal number is contrary to the right to make an independent decision. For this reason, identifying numbers whose use is restricted to data processing for a specific purpose may be reconciled with the Constitution. A legislative enactment which introduces such a limited use "personal number" must contain regulatory and control guarantees to prevent the use of such numbers in other contexts. Neither the "state sphere," nor the state administration as a whole may be regarded as a unit within which a uniform personal identification code could be introduced or used.

4. The TVR and its implementing decrees create and maintain a situation which constitutes a grave violation of the Constitution. Therefore their immediate invalidation is warranted. At the same time, the Constitutional Court recognizes the fact that a sudden change in the record keeping systems established on the basis of these legal provisions, for the purpose of permitting these systems to be used for personal identification in a manner consistent with the Constitution, would temporarily render the functioning of the state administration significantly more difficult. Further, the Constitutional Court considered the fact that the reforming of these systems has begun and that legislation providing for the protection of personal data will be enacted within the foreseeable future. Accordingly, in order to facilitate the transition to a constitutional personal record keeping system, the Constitutional Court sustains until the end of this year certain provisions of the TVR in force on the basis of which the state census bureau would be capable to supply data that was absolutely necessary in order to provide legal protection to citizens and from the standpoint of administrative functioning. The continued supply of data to private persons is temporarily permitted, provided that these private persons prove their related right in writing. Similarly, data may be supplied to organs authorized by the Council of Ministers decrees

to regularly receive data. (See the related arguments in 2.3 above.) On the other hand, the conveyance of data to private persons invoking only a just interest, or to those not able to verify their right in writing, and further, to all organizations except for the above exceptions, shall cease effective immediately. In order to enable this function of a limited scope, and to facilitate reorganization, the Decision left untouched the data gathering field until the end of this year. The Decision discontinues with an immediate effect only the opportunity to broaden this function based on decrees.

As a result of the grave unconstitutionality of the present use of personal numbers, the Constitutional Court invalidates the provision which mandates the use of personal numbers in official documents, records, administrative and judicial proceedings, and which requires the entering of the personal number into the personal identification booklet. Beginning on the date when this Decision is published no one has the authority to demand from another person, or to render the exercise of a right or the provision of a service contingent on the disclosure of the personal number.

The Constitutional Court stipulates that the existing personal numbers will not be deleted from state records until the new codes are introduced based on a legislative enactment. The Constitutional Court nevertheless calls attention to the fact that personal numbers of new persons must not be added to records, and to the fact that interface between records with the use of personal numbers is not included in the grace period in which the already existing personal numbers—to be used exclusively as internal references—will not be deleted for the time being. The threat implicit in this kind of limited use of the unconstitutional personal number is offset by the fact that by virtue of its character this use is condemned to extinction: the unity of systems will necessarily disintegrate because new data tied to personal numbers will not be incorporated, and because affected persons will not reveal their personal numbers.

Discontinuing the unconstitutional condition is the duty of everyone who recorded personal numbers, irrespective of whether these data processors acted on behalf of the state. State data processors used the personal numbers at their own risk, in theory depending on receiving the consent of the affected persons.

The state census bureau is the sole organization authorized to issue new personal numbers until 31 December 1991, and to use those only as internal reference in conjunction with the existing personal numbers. This is necessary in order to preserve the wholesomeness of the aggregate data until the legislature renders a decision regarding the constitutional successor organization to the census bureau.

5. Pursuant to Paragraph 41 of Law Number 32 of 1989 the Constitutional Court publishes this Decision in MAGYAR KOZLONY.

[Signed] Dr. Laszlo Solyom, chairman of the Constitutional Court, the Constitutional Court Justice presiding Constitutional Court justices: Dr. Antal Adam, Dr. Geza Kilenyi, Dr. Peter Schmidt, Dr. Odon Tersztyanszky, Dr. Geza Herczegh, Dr. Tamas Labady, Dr. Andras Szabo, Dr. Imre Voros, and Dr. Janos Zlinszky

Constitutional Court Case No. 983/B/1990/3

Resolution on Council for Rural Development

91EP0411A Warsaw MONITOR POLSKI in Polish No 5 Item No 29, 11 Feb 91 pp 46-47

[Resolution No. 12 of the Council of Ministers dated 26 January governing the formation of the Council for Rural Development]

[Text] The Council of Ministers resolves as follows:

Paragraph 1.1. The Council for Rural Development, hereinafter referred to as "the council," is established under the chairman of the Council of Ministers.

1.2. The council is a consultative-advisory body of the Council of Ministers and the chairman of the Council of Ministers on matters regarding the implementation of agricultural policies, the development of agriculture and the food industry, and rural problems.

Paragraph 2. The purposes of the council include:

1) Assessing the condition of the food industry and agricultural market and presenting opinions and proposals concerning improvements in agricultural policy.

2) Initiating and evaluating proposals for developing discrete domains of agriculture and food industry.

3) Evaluating proposals for restructuring the organization and activities of the institutions and agencies servicing agriculture, directions of foreign cooperation, and ties to foreign markets.

4) Initiating organizational and community projects too promote rural self-government.

5) Assessing living conditions in the countryside and working conditions in agriculture, identifying the related shortcomings, and identifying the possibilities for improvements in the current situation.

6) Assessing draft government documents, including normative legal acts which concern the food complex and affect the evolution of rural living conditions.

7) Initiating projects to improve and modernize health care, social services, education, and information drives in the countryside as well as to promote sports, tourism, and culture in the countryside.

8) Periodically assessing the accomplishment of basic objectives in agriculture and food industry and the utilization of the related production factors and resources.

9) Spurring projects to improve rural infrastructure.

10) Initiating and sponsoring organizational, social, economic, and scientific and technical projects to promote entrepreneurial spirit among the rural population, growth of food output, and the economic and civilizational advancement of the countryside.

Paragraph 3. The council:

1) Presents to the chairman of the Council of Ministers assessments, recommendations, and proposals of solutions concerning matters of fundamental importance to agriculture, the food industry, and the countryside.

2) Appoints problem-oriented taskforces.

3) Recommends assessments, reviews, and seeking the opinions of experts along with, as the need arises, short-term studies of the problems of agriculture, the food industry, and the countryside.

Paragraph 4.1. The council consists of representative practitioners, basic researchers, and representatives of agricultural institutions and the trade and production organizations of farmers.

4.2. The chairman of the Council of Ministers appoints and recalls the council chairman and secretary as well as, on the recommendation of the council chairman, members of the council.

4.3. The council chairman may invite outside experts and social and political activists to participate in the sessions and work of the council.

4.4. The council secretary attends to the organization of labor at the council.

4.5. The operating procedure of the council is defined in its manual of rules. Said manual is resolved upon by the council and submitted for approval to the chairman of the Council of Ministers.

4.6. The council cooperates with the advisory and consultative bodies of the Council of Ministers and the chairman of the Council of Ministers, in particular with the object of adapting its work to the results of their activities.

Paragraph 5. Administrative services and resources for the council are provided by the Council of Ministers.

Paragraph 6. Resolution No. 44 dated 20 February 1981 of the council of Ministers Concerning the Establishment of the Food Industry Council (MONITOR POLSKI, No. 6, Item No. 52) is hereby declared null and void.

Paragraph 7. The present resolution takes effect on the day of its publication.

Chairman of the Council of Ministers: J. K. Bielecki

Law Establishes Committee for Science Research

91EP0411B Warsaw DZIENNIK USTAW in Polish No 8 Item No 28, 29 Jan 91 pp 88-92

["Text" of law dated 12 January governing the creation of the Committee for Scientific Research]

[Text]

Chapter 1. General Provisions

Article 1.1. The Committee for Scientific Research, hereinafter referred to as "the committee," is hereby established.

1.2. The committee is the principal government agency in charge of the state's research and technology policy.

Article 2. The committee's purposes include, in particular:

1) Drafting and submitting to the Council of Ministers assumptions of the state's research and technology policies, including proposed proportion of budget outlays on science in the distributed gross national product.

2) Defining the directions of scientific and R&D work that are particularly important to science, culture, civilizational advancement, or the economy.

3) Drafting and submitting to the minister of finance proposed budget-line items concerning science for inclusion in the budget law.

4) Drafting and submitting to the Council of Ministers:

a) Recommendations on the scope of scientific and R&D work and its financing as ensuing from the strategic government programs determined by the Council of Ministers.

b) Recommendations on the conclusion and continuation of intergovernmental agreements concerning bilateral and multilateral scientific and R&D cooperation.

5) Determining the guidelines and procedure for granting the funds referred to in Article 14, Paragraph 2.

6) Allocating the funds referred to in Article 14, Paragraph 2, and in particular the funds transmitted to the committee's subcommittees and their taskforces.

7) Evaluating the progress of the committee-sponsored scientific research, R&D work, general technical activities, and research-support activities, and monitoring the expenditure of the funds allocated for these purposes.

8) Initiating and evaluating the drafts of normative acts and economic and financial solutions concerning science and research and technology progress.

Article 3. Whenever the present law refers to:

1) Strategic government programs, this is construed as referring to interdisciplinary projects of fundamental importance to various domains of social or economic life.

2) Scientific entities, this is construed as referring to:

a) Institutions of the Polish Academy of Science.

b) Basic—as interpreted by the statutes of higher educational institutions—organizational units of these institutions that engage in scientific research or R&D work in one or another particular scientific discipline.

c) Higher educational institutions with respect to the research they conduct on their own as interpreted by the Law on Higher Education.

3) R&D units—this is construed as referring to organizational units as interpreted by the Law on Research and Development Units.

4) Funding or additional funding of statutory activities—this is construed as the total or partial payment of the operating cost of scientific and R&D units as related to the scientific research and R&D work, which they engage in continuously, in particular disciplines and directions of science, and to the cost of said research and work; as regards the research units at institutions of higher education, such funding is not intended to defray instructional and training expenses and the related research or the operating costs of these institutions themselves.

5) Funding of research projects—this is construed as referring to separate funding of competitive individual or collective research projects on topics specified by their authors or by the committee.

6) Funding of general technical and research-support activities—this is construed as allocating funds for, in particular, unification and standardization of products, protection of intellectual and industrial property, scientific expertises and assessments and evaluations, scientific and technical information, the operation of research libraries, the popularization of achievements of science and technology, and publishing activities.

Chapter 2. The Committee and Its Bodies

Article 4.1. The committee's membership consists of:

1) The chairman.

2) Two deputy chairmen.

3) The committee secretary.

4) The members.

4.2. The committee chairman is appointed and recalled by the Sejm on the recommendation of the chairman of the Council of Ministers.

4.3. The deputy chairmen are elected by the committee from among its members.

4.4. The committee secretary is appointed and recalled by the chairman of the Council of Ministers on the recommendation of the committee chairman.

4.5. The members of the committee are:

1) Five persons who are appointed and recalled by the chairman of the Council of Ministers from among members of the Council of Ministers or heads of central agencies.

2) Subcommittee chairmen and five representatives for each subcommittee to be elected from among the persons referred to in Article 8, Paragraph 1, Point 3 and Paragraph 2, Point 4.

Article 5.1. The resolutions of the committee on the matters referred to in Article 2, Points 3 and 6, are adopted by an absolute majority of votes in the presence of a quorum of at least two-thirds of the committee's statutory membership. In all other matters the committee adopts resolutions by an absolute majority of votes in the presence of a quorum of at least one-half of its statutory membership.

5.2. The specific guidelines and operating procedure of the committee are defined in the rules manual resolved upon by the committee and approved by the Council of Ministers.

Article 6.1. The committee publishes DZIENNIK URZEDOWY KOMITETU BADAN NAUKOWYCH [official journal of the committee for Scientific Research] in conformity with separate regulations.

6.2. The committee publishes BIULETYN KOMITETU BADAN NAUKOWYCH in conformity with the committee's rules manual and includes therein, in particular, information on the committee's intended programs, criteria for the decisions taken, and accomplishments.

Article 7. The bodies of the committee are:

1) The committee chairman.

2) The Basic Research Subcommittee.

3) The Applied Research Subcommittee.

Article 8.1. The membership of the Basic Research Subcommittee consists of:

1) The committee secretary.

2) One representative each of members of the Council of Ministers or heads of central offices referred to in Article 4, Paragraph 5, Point 1.

3) Twenty-eight elected members.

8.2. The membership of the Applied Research Subcommittee consists of:

1) The committee secretary.

2) One representative each of members of the Council of Ministers or heads of central offices referred to in Article 4, Paragraph 5, Point 1.

3) Seven committee-appointed persons representing economic entities or local government bodies.

4) Thirty elected members.

8.3. The committee's subcommittees elect their own chairmen, deputy chairmen, and five representatives each for the committee from among their elected members.

8.4. The committee's subcommittees are divided into taskforces whose number is determined by the committee upon the request of the subcommittees.

8.5. Upon the recommendation of a subcommittee the committee defines the domains and disciplines of science for which discrete taskforces are to be competent.

Article 9.1. The chairman of the committee directs its activities and represents it outside.

9.2. The chairman of the committee issues, pursuant to laws and with the object of implementing them, executive orders and ordinances and accomplishes other objectives defined in laws.

9.3. The chairman of the committee cooperates with agencies of government administration and scientific and technical societies on matters within the scope of his activities.

9.4. The chairman of the committee submits to the Council of Ministers annual reports on the activities of the committee.

9.5. The chairman of the committee has the right to suspend the execution of a resolution of the committee, its subcommittee, or its taskforce, and submit the matter for reconsideration to the committee. The committee acts by a majority of at least two-thirds of its statutory membership on the issue considered in the thus suspended resolution.

Article 10.1. The purposes of the committee's subcommittees include:

1) Submitting to the committee assessments of the matters referred to in Article 2, Points 1-4 and 8.

2) Determining the criteria for the evaluation of the eligibility of scientific and R&D units for entirely or partially funding their statutory activities.

3) Assessing the status of disciplines and scientific orientations and the scientific level of scientific and R&D units.

4) Initiating or evaluating draft documents, expertises, analyses, and assessments presented to the committee.

10.2. As regards the management of the financial resources referred to in Article 14, Paragraph 2, the committee's subcommittees:

1) Present to the committee recommendations on the size and allocation among taskforces of the funds granted pursuant to Article 2, Point 6.

2) Approve the recommendations of taskforces on the allocation of the funds referred to in Article 14, Paragraph 2, Points 1, 2, and 5, among the scientific and R&D units. The related resolutions of subcommittees may be appealed to the committee within 14 days from the date of their transmittal.

Article 11.1. Subcommittee taskforces appoint specialist sections with advisory powers. The sections, in their turn, may appoint reviewers and jurors as well as avail themselves of other forms of evaluating the research projects under their consideration.

11.2. As regards their management of financial resources, the taskforces:

1) Present to the subcommittees recommendations for the allocation of the funds granted under Article 14, Paragraph 2, Points 1, 2, and 5, among the scientific and R&D units.

2) Adopt, on the basis of the recommendations of their sections, resolutions on funding research projects from the funds referred to in Article 14, Paragraph 2, Points 2 and 4; there can be no appeal from these resolutions.

3) Consider the opinions of associations, and especially of scientific and scientific-technical societies, on the status and needs of discrete domains of science and technology, and transmit to the committee recommendations for supporting their activities with the funds referred to in Article 14, Paragraph 2, Point 6.

Article 12.1. The work of the committee's subcommittees is directed by their chairpersons.

12.2. In accomplishing their purposes, the committee's subcommittees adopt resolutions and issue guidelines and recommendations to the taskforces. The resolutions are adopted by an absolute majority of votes in the presence of a quorum of at least one-half of the statutory membership.

12.3. Taskforces of the committee's subcommittees elect chairpersons for directing their work.

Article 13.1. The committee accomplishes its purposes with the aid of an Administrative Office directed by the committee chairman.

13.2. The organizational structure of the Administrative Office is determined by a statute conferred by the Council of Ministers.

Chapter 3. Funding of Scientific Research, R&D Work, and General-Technical and Research-Support Activities

Article 14.1. The funds earmarked for science in the State Budget are comprised in a separate part of the budget.

14.2. The funds referred to in Paragraph 1 are earmarked for:

1) Total or partial financing of the statutory activities of discrete scientific and R&D units as well as of the research performed independently at higher educational institutions.

2) Total or partial financing of investment projects serving the needs of scientific research or R&D work, including projects ensuing from strategic government programs.

3) Financing of research proposals, including those ensuing from strategic government programs.

4) Partial financing of socially or economically important R&D projects performed on the recommendation of economic entities, central government agencies, or local-government bodies.

5) Financing of foreign scientific and technical cooperation ensuing from intergovernmental agreements.

6) Partial financing of general-technical and research-support activities, as well as partial financing of other organizations active in behalf of science.

Article 15.1. The granting of the funds referred to in Article 14, Paragraph 2, Points 1 and 2, requires prior consultation of the concerned minister of state.

15.2. The funds referred to in Article 14, Paragraph 2, Points 2 and 5, are granted by the committee's subcommittees directly to scientific or R&D units.

15.3. The funds earmarked for research performed independently at higher educational institutions are granted directly to these institutions upon the recommendation of the concerned ministers.

15.4. The funds referred to in Article 14, Paragraph 2, Point 3, are granted by taskforces of the committee's subcommittees directly to project directors.

15.5. The funds referred to in Article 14, Paragraph 2, Point 4, are granted by taskforces of the committee's subcommittees directly to the entities commissioning R&D work or to the executors of that work.

15.6. The funds referred to in Article 14, Paragraph 2, Points 3 and 4, may be allocated for honorariums ensuing from civil-law agreements, unless the committee resolves otherwise.

15.7. The funds referred to in Article 14, Paragraph 2, Point 6, are granted by the committee to the proper central government agencies or other entities acting on behalf of science.

15.8. The funds referred to in Article 14, Paragraph 2, Point 1, and the funds transmitted to the committee from sources other than the State Budget are disbursed by the committee chairman on the basis of recommendations by the committee and its subcommittees or their taskforces.

Article 16. Societies, foundations, and agencies promoting scientific research or R&D work may be granted the funds referred to in Article 14, Paragraph 2, Points 3, 4, and 6, in accordance with guidelines determined by the committee.

Article 17. The minister of finance issues, in cooperation with the committee chairman, executive orders defining the guidelines for the management of the funds earmarked for science in the State Budget.

Chapter 4. Rules for Electing Members of the Committee's Subcommittees

Article 18.1. The members of the committee's subcommittees referred to in Article 8, Paragraph 1, Point 3, and Article 2, Point 4 are elected through direct two-stage elections, that is, elections comprising the nominations of candidates and their subsequent election to taskforce membership.

18.2. The persons referred to in Article 8, Paragraph 1, Point 2, and Article 2, Points 2 and 3 are members of the taskforces they elect.

Article 19.1. Full voting rights belong to persons with an academic rank or degree and employed by a scientific unit or by a R&D unit.

19.2. Every voter may nominate candidates only once and vote only once.

19.3. Persons with a habilitated doctoral academic rank or degree who are employed by a scientific unit or by a R&D unit are eligible to vote and be elected, with the proviso of Paragraph 4.

19.4. Not eligible for election are persons who:

1) Served on a subcommittee for two successive terms of office prior to the elections.

2) Exercise the duties of the rector or prorector of a higher educational institution.

3) Exercise the duties of the director of a research institution of the Polish Academy of Sciences or of a R&D unit.

19.5. The term of office of elected members of the committee's subcommittees is three years.

19.6. In the event of a diminution in the membership of a subcommittee taskforce during its term of office, replacement members are appointed from among the persons who had won the next largest number of votes in the elections but were not appointed to any taskforce, with the proviso of Article 21, Paragraph 7.

Article 20.1. Elections to the committee's subcommittee taskforces are conducted by an Electoral Subcommittee appointed by the committee chairman.

20.2. Electoral rules are determined by a committee resolution.

20.3. Scientific and R&D units appoint local electoral committees in consonance with electoral rules.

Article 21.1. The nomination of candidates for membership in the taskforces of the committee's subcommittees takes place by means of questionnaires distributed to all voters.

21.2. Each voter nominates not more than three candidates per taskforce, of whom only candidate one may be employed in the same higher educational institution, the same research institution of the Polish Academy of Science, or the same R&D unit, and only one candidate may represent the same scientific discipline as the voter.

21.3. The Electoral Subcommittee prepares lists of taskforce candidates according to the following guidelines:

1) The number of candidates should be thrice the number of taskforce members.

2) The eligible candidates are the persons who won the largest number of nominations and who expressed their consent to nomination for membership in specified taskforces.

3) In the event that candidates receive the same number of nominations, the list of candidates is correspondingly broadened.

4) Not more than five representatives of the same scientific disciplines may be named on the list.

21.4. On the basis of the lists of candidates for discrete taskforces, elections are conducted by again polling all voters.

21.5. Elections of taskforce members are by secret ballot.

21.6. Each voter elects at most as many candidates for a taskforce for which he had nominated candidates as there are vacancies therein.

21.7. The elected members of each taskforce are, successively, the candidates who win the most votes, with the proviso that a taskforce may contain not more than two representatives of any one scientific discipline. In the event of a tie the Electoral Subcommittee casts lots.

Chapter 5. Amendments to Regulations in Force and Special, Interim, and Final Provisions

Article 22. The following amendments are incorporated in the Law dated 31 May 1962 on the Patents Office of the Polish People's Republic (Dz.U. [DZIENNIK USTAW], No. 33, Item No. 157, 1962; No. 5, Item No. 17, 1985; and No. 33, Item No. 180, 1987):

1) The title of the law is amended to "on the Patents Office of the Polish Republic."

2) In Article 1, Paragraph 2 is reworded as follows:

"2. The Patents Office of the Polish Republic is subordinated to the chairman of the Council of Ministers."

3) In Article 4, Paragraph 2 is reworded as follows:

"2. The composition and scope of activities and operating procedure of the council shall be defined in a statute conferred by the chairman of the Council of Ministers."

Article 23. The following amendments are incorporated in the law dated 10 April 1985—Atomic Law (Dz.U., No. 12, Item No. 70, 1985; and No. 33, Item No. 180, 1987):

1) In Article 44, Paragraph 2 is reworded as follows:

"2. The [Atomic Energy] Agency is subordinated to the chairman of the Council of Ministers."

2) In Article 50:

a) In Paragraph 2, "committee" is struck out and "Council of Ministers" is inserted in lieu thereof.

b) In Paragraph 3, "committee" is struck out and "chairman of the Council of Ministers" is inserted in lieu thereof.

Article 24. Elected members of the committee's subcommittees receive salaries whose amount is determined by the chairman of the Council of Ministers.

Article 25.1. The following taskforces are part of the Basic Research Subcommittee during the first term of office of the committee:

1) Humanities and Social Sciences.

2) Natural, Medical, and Earth Sciences.

3) Mathematical, Physical, and Chemical Sciences.

4) Engineering Sciences.

25.2. Each taskforce of the Basic Research Subcommittee is to contain seven elected members.

25.3. The following taskforces are part of the Applied Research Subcommittee during the first term of office of the committee:

1) Mechanics and Construction.

2) Materials and Technology.

3) Agriculture and Food Industry.

4) Health Care and Environmental Protection.

5) Electronics, Electrical Engineering, Computer Science, and Telecommunications.

6) Transportation, Mining, Geology, and Energy Generation and Utilization.

25.4. Each taskforce of the Applied Research Subcommittee contains five elected members.

Article 26.1. Elections to subcommittees of the committee during its first term of office are conducted by the Electoral Commission appointed by the chairman of the Committee for Science and Technology Progress under the Council of Ministers.

26.2. The Electoral Commission shall determine:

1) The rules for elections to subcommittee taskforces of the committee during its first term of office.

2) The domains and disciplines of science belonging within the competences of discrete taskforces during the first term of office.

26.3. The elections shall be conducted not later than within three months from the effective date of the present law.

Article 27. The chairman of the Committee for Science and Technology Progress under the Council of Ministers shall, in cooperation with the minister of finance, issue an executive order defining the guidelines for the management of the funds allocated for science in 1991.

Article 28. The minister of finance shall issue the executive order referred to in Article 17 not later than by 30 June 1991, with the order to have binding power as of 1 January 1992.

Article 29.1. The Committee for Science and Technology Progress under the Council of Ministers is hereby abolished, with the proviso of Paragraph 3 below.

29.2. Matters defined in separate regulations which heretofore belonged in the competences of the Committee for Science and Technology Progress under the Council of Ministers and to the Presidium of the committee and its chairman are herewith transferred, to the extent defined in the present law, to the jurisdiction of the Committee for Scientific Research and its chairman.

29.3. The Committee for Science and Technology Progress under the Council of Ministers acts in consonance with the present law until the day on which the Committee for Scientific Research is constituted.

Article 30.1. The Office of Science and Technology Progress and Applications is hereby abolished.

30.2. Matters defined in separate regulations which heretofore belonged in the competences of the minister-director of the Office of Science and Technology Progress and Applications and the Office of Science and Technology Progress and Applications are transferred, to the extent defined in the present law, to the jurisdiction of the Committee for Scientific Research and its chairman.

30.3. The Council of Ministers shall name the government agencies which will serve as the parent agencies or supervising agencies of the state enterprises and R&D units heretofore under the jurisdiction or supervision of the minister-director of the Office of Science and Technology Progress and Applications.

Article 31. The law of 3 December 1984 on the Formation of the Committee for Science and Technology Progress under the Council of Ministers and the Office of Science and Technology Progress and Applications (Dz.U., No. 55, Item No. 280, 1984; No. 33, Item 180, 1987; and No. 25, Item 135, 1989) is hereby rescinded.

Article 32. The present law takes effect on the day of its publication.

President of the Polish Republic: L. Walesa

Law on Local Taxes, Payments

91EP0412A Warsaw DZIENNIK USTAW in Polish No 9, 30 Jan 91, Item No 31 pp 98-101

["Text" of Law, Item No. 31, dated 12 January, on local taxes and payments]

[Text]

Chapter 1. General Provisions

Article 1. The present law defines the tax obligation with respect to the real estate tax, the transportation tax, the dog ownership tax, and the following local fees: open market, local, and administrative.

Chapter 2. Real Estate Tax

Article 2. The tax obligation with respect to the real estate tax is binding on individuals, legal entities, and organizational entities that lack legal entity status, if they:

1) Are owners or independent possessors of real estate or of structures that are not permanently joined to the ground.

2) Are dependent possessors of or administer real estate or structures not permanently joined to the ground which constitute the property of the State Treasury or the local gmina [township], if the possession ensues from an agreement concluded with the owner or from administration established by the owner.

3) Possess without legal title real estate or structures not permanently joined to the ground which constitute the property of the State Treasury or the gmina.

4) Are perpetual usufructuaries of real estate.

Article 3.1. The following are subject to the real estate tax:

1) Buildings or parts thereof.

2) Structures used exclusively for business purposes other than farming or forestry.

3) Grounds to which the agricultural tax regulations do not apply.

4) Grounds to which agricultural tax regulations apply but which are used for business purposes other than farming or forestry.

3.2. Farming as construed by the present law is considered to be crop cultivation and livestock raising, including also the production of seed, nursery, breeding, and reproductive materials; the growing of vegetables, decorative plants, and cultivable mushrooms; orchardry; breeding and production of livestock semen, poultry, and useful insects; animal production of the industrial type; and pisciculture.

3.3. Forestry operations as construed by the present law are considered to be the activities of forest possessors and administrators relating to the upkeep of forests, the maintenance and expansion of forest resources and crops, and the production or collection—other than acquisitions—of timber, resin, Christmas trees, roots and stumps of trees, bark, litter of conifer needles, wild game, and fruits of the earth, as well as the sales thereof in unprocessed condition.

3.4. A building, as construed by the present law, is considered to be a structure attached to or on earth and provided with walls or pillars or poles and a roof at the top.

Article 4.1. The tax assessment basis is:

1) For buildings or parts thereof—useful surface area.

2) For structures—their initial value as determined according to separate sinking-fund regulations, even if they are completely depreciated.

3) For grounds—the surface area of these grounds.

4.2. The useful surface area of buildings is construed by the present law to mean the surface area enclosed by walls on every floor of the building, with the exception of the surface area of stair landings and elevator shafts.

4.3. The surface area of premises or parts thereof and flights of stairs with ceilings 1.4 to 2.2 meters (m) tall is considered to be 50 percent the useful surface area of a building, and if the ceilings are below 1.4 m in height, such surface area is not included in the calculations.

Article 5.1. The gmina council determines the real estate tax assessment rates, provided that, per year, they may not exceed:

1) 400 zlotys per m^2 of surface area in residential buildings or parts thereof.

2) 15,000 zlotys per m^2 of surface area in buildings or part thereof used for business purposes other than farming or forestry, as well as for parts of residential buildings used for business purposes.

3) 5,000 zlotys per m^2 of surface area in all other buildings or parts thereof.

4) Two percent of the assessed value of structures.

5) Per m^2 of the surface area of grounds:

a) 500 zlotys for grounds used for business purposes, other than grounds linked to residential buildings.

b) 50 zlotys for all other grounds.

5.2. Grounds used for business purposes are considered to be developed and undeveloped land serving for business activities, and in particular:

1) Land under manufacturing, warehousing, administrative, social, and hotel buildings.

2) Land under structures and facilities.

3) Land taken up for internal roads, turn-around squares, outdoor depots, and greenery, along with land on which investment projects are being or will be implemented.

Article 6.1. The tax obligation arises on the first day of the month subsequent to the month in which circumstances arose warranting the rise of said obligation.

6.2. If the circumstance warranting a tax obligation is the existence of a structure or a building or parts thereof, the tax obligation arises on 1 January of the year subsequent to the year in which the structure is completed or in which the utilization of the building or parts thereof is commenced even before their finishing is completed.

6.3. If during a fiscal year there occurs a change in the manner in which a building or a parcel of land or a part thereof is utilized, and if that change affects the tax assessment for that year, the tax is subject to a reduction or an increase beginning with the first day of the month subsequent to the month in which said change arises.

6.4. The tax obligation expires with the expiration of the month on which circumstances warranting said obligation no longer apply.

6.5. If the tax obligation arises or expires in the course of a year, the tax for that year is assessed proportionately to the number of months during which that obligation applied.

6.6. Individuals and organizational entities lacking legal entity status, other than those referred to in Paragraph 8, are obligated to deposit with the appropriate gmina office a form with a list of real estate, within 14 days from the date the real estate tax obligation is contracted, and to notify said office about the changes referred to in Paragraph 3 within 14 days from the date on which they arise.

6.7. The real estate tax for the fiscal year to be paid by individuals and entities referred to in Paragraph 6 is assessed by the village head (burgomaster, mayor) proper for the location of the real estate. The tax is payable in installments falling due within the periods of up to 15 March, 15 May, 15 September, and 15 November of the fiscal year.

6.8. Legal entities and state organizational units lacking legal entity status are obligated to:

1) Submit to the appropriate gmina office a real estate tax declaration for the given fiscal year, prepared on the tax return form prescribed by the minister of finance, by 15 January of that year, or, if the tax obligation arises after that date, within 14 days from the date on which circumstances warranting said obligation arise; in the event that the changes referred to in Paragraph 3 arise, the tax declaration should be correspondingly revised within 14 days from the date on which these changes arise.

2) Pay the real estate tax calculated in the tax declaration—without a summons—into the budget account of the concerned gmina for discrete months prior to the 15th day of each month.

6.9. The gmina council may order the collection of the real estate tax from the individuals and entities referred to in Paragraph 6 by means of assessment and name the collectors and specify the remuneration payable to them.

Article 7.1. The following are exempt from the real estate tax:

1) Real estate or parts thereof used by the agencies and administrative offices of local self-government.

2) On condition of reciprocity—real estate owned by foreign countries or international organizations or transferred in perpetual usufruct, or designated for sites of diplomatic missions, consular offices, and other missions availing themselves of privileges and immunities under international laws, agreements, or customs.

3) Public roads together with the land they occupy and road shoulders and medians.

4) Structures used exclusively for the needs of public rail transit and the land they take up, as well as structures used exclusively for the needs of airfields and sea and river ports.

5) Structures directly used for the generation of electrical power, power transmission lines, gas pipelines, heat supply mains, fuel pipelines, water mains, sewage mains, water supply system pump stations—and the land they occupy.

6) Land occupied by water-impounding reservoirs or hydroelectric power stations.

7) Farm buildings used for the conduct of farming operations as construed by the regulations governing the agricultural tax or special domains of agricultural production or forestry activities.

8) Real estate or parts thereof used by societies and associations to engage in statutory work with children and youth as regards education, upbringing, science and technology, physical culture, and sports, with the exception of the real estate or parts thereof serving for business

activities, and the land permanently serving as camping grounds and recreational facilities for children and youth.

9) Treasury-owned or gmina-owned land under forests, forested land, and land under farm buildings and forestry structures, with the exception of land transferred in perpetual usufruct or used for activities other than forestry.

10) Buildings and land entered in the registry of landmarks, on condition that they are maintained and cared for in accordance with the regulations governing the protection of landmarks, with the exception of the parts thereof serving for business activities.

11) Real estate or a part thereof that is exempted from the real estate tax under separate regulations.

7.2. The gmina council may introduce exemptions other than those referred to in Paragraph 1.

Chapter 3. Tax on Means of Transportation

Article 8. The tax on means of transportation is levied on motor vehicles, tractors, trailers, motor bikes, and engine-powered yachts, ferries, and boats, hereinafter referred to as "means of transportation."

Article 9.1. The tax obligation with respect to the tax on means of transportation applies to, with the proviso of Paragraph 2, individuals and legal entities owning means of transportation. It also applies to organizational entities lacking legal entity status if means of transportation are recorded or registered in their name.

9.2. In the event of a change in the ownership of a recorded or registered means of transportation, the tax obligation continues to apply to the previous owner until the expiration of the month in which the ownership is transferred.

9.3. The tax obligation referred to in Paragraph 1 arises on the first day of the month subsequent to the month in which the means of transportation is recorded or registered, and in the event of the purchase of a means of transportation that is already recorded or registered, it arises on the first day of the month subsequent to the month in which that means of transportation was purchased.

9.4. The tax obligation referred to in Paragraph 1 expires at the end of the month in which the means of transportation is permanently retired from use (deleted from the registry) or sold.

9.5. In the event circumstances arise that affect the rise or expiration of a tax obligation and a change in home or office address, the individuals and entities referred to in Paragraph 1 are obligated to submit to the appropriate tax office a corresponding notice, prepared on the applicable official form, within 14 days from the date these circumstances arise.

9.6. The tax agency on matters of the tax on means of transportation is the tax office of the gmina of the residence or employment of the taxpayer, and with respect to yachts, ferries, and boats, the tax office of the gmina in which these are registered.

Article 10.1. The minister of finance shall issue an executive order defining the rates of the tax on means of transportation with allowance to the kind of means of transportation, engine displacement, or load capacity, or total mass, with the proviso that the assessed annual tax on a single means of transportation may not exceed:

1) 40,000 zlotys for a motor bike.

2) 150,000 zlotys for a motorcycle.

3) 500,000 zlotys for a passenger car.

4) 900,000 zlotys for all others.

10.2. The gmina council may reduce the assessment rates specified in the executive order referred to in Paragraph 1.

Article 11.1. The tax on means of transportation is, with the proviso of Paragraph 2, payable in two equal semi-annual installments, on or before 15 February and on or before 15 September of each year.

11.2. If the tax obligation arises:

1) After 1 February but before 1 September of the fiscal year, the tax for that year is payable in two equal installments, with:

a) The first installment payable within 14 days from the date the tax obligation is contracted.

b) The second installment payable by 15 September of the fiscal year.

2) After 1 September the tax is payable in a lump sum within 14 days from the date the tax obligation is contracted.

11.3. If the tax obligation is contracted or expires during a fiscal year, the tax rates specified in the executive order referred to in Article 10, Paragraph 1 are subject to a reduction in direct proportion to the number of months during which the tax obligation was nonexistent.

11.4. Individuals and entities referred to in Article 9, Paragraph 1 pay the tax on means of transportation—without a summons—into the account of the gmina budget referred to in Article 9, Paragraph 6.

Article 12.1. The following are exempt from the tax on means of transportation:

1) On condition of reciprocity—the means of transportation owned by diplomatic missions, consular offices, and other foreign missions eligible for privileges and immunities on the basis of international laws, agreements, or customs, as well as members of their personnel

and other associated persons if these are not Polish citizens and are not permanent residents of the Polish Republic.

2) The means of transportation constituting mobilization reserves.

3) Passenger cars, motorcycles, and motor bikes owned by disabled persons and used by them for non-wage-earning purposes, with the proviso that the exemption applies to only one vehicle per person.

12.2. The disabled persons referred to in Paragraph 1, Point 3 are considered to be:

1) The handicapped in Categories 1 and 2.

2) The handicapped in Category 3 with ailments (damage to) extremities who, according to a ruling of the health service center authorized to conduct medical examinations of drivers and driver applicants, are authorized to operate a vehicle.

3) The disabled persons whom the health service center judges to be eligible for vehicle ownership owing to their disability.

4) Disabled war veterans and disabled military personnel.

12.3. The tax exemption referred to in Paragraph 1, Point 3 also applies when the vehicle is registered in the name of the spouse or one of the parents of the disabled person, who lives in the same household with that person.

12.4. A gmina council may introduce other exemptions in addition to those referred to in Paragraph 1.

Chapter 4. Tax on Dog Ownership

Article 13.1. The tax obligation with respect to the tax on dog ownership applies to individuals who own dogs.

13.2. The tax on dog ownership is not collected:

1) On condition of reciprocity—from members of the personnel of diplomatic missions and consular offices, and associated persons, on the basis of international laws, agreements, or customs, if these are not Polish citizens and are not permanent residents of the Polish Republic.

2) In the event that the dogs owned are guide dogs for disabled (blind, deaf, or incapacitated) persons.

3) From persons of more than 70 years of age managing their own households—on one dog.

4) In the event that the dogs owned serve as farm watchdogs—two dogs each per farm, or as shepherds pasturing herds and flocks, with no limit on the number of dogs in that case.

Article 14. The gmina council:

1) Determines the rates of the tax on dog ownership, with the proviso that said tax may not exceed 40,000 zlotys annually per dog.

2) Determines the guidelines for assessing and collecting the tax and the deadlines for its payment.

3) Orders the collection of the tax on dog ownership by means of assessment and identifies the collectors and specifies their remuneration.

4) May introduce other exemptions in addition to those referred to in Article 13, Paragraph 2.

Chapter 5. Local Fees

Article 15.1. The open-market fee is collected from individuals, legal entities, and entities lacking legal entity status who engage in sales in an open market.

15.2. Open markets as referred to in Paragraph 1 are any sites on which vending takes place by hand, from baskets, from market stalls, from horse-drawn vehicles, from trailers, from motor vehicles, and so forth, along with sales of animals, means of transportation, and vehicle spare parts.

15.3. The open-market fee is collected separately from the fees envisaged in separate regulations for the use of open-market facilities as well as for other services rendered by the open-market administrator.

Article 16. Exemptions from the open-market fee apply to the persons and entities referred to in Article 15, Paragraph 1 who and which pay the real estate tax on real estate or structures not joined permanently to the grounds on which an open market is located.

Article 17.1. The daily local fee is collected from persons temporarily sojourning for recreational, health, or tourist purposes in localities with favorable climatic properties, notable landscapes, and suitable accommodations for tourists.

17.2. The local fee is not levied:

1) On condition of reciprocity—on members of the personnel of diplomatic missions and consular offices and other associated persons on the basis of international laws, agreements, or customs, if they are not Polish citizens and lack permanent residence in the Polish Republic.

2) On persons sojourning in hospitals or health resorts and sanitariums.

3) On blind persons and their guides.

4) On taxpayers subject to the real estate tax by virtue of their ownership of vacation homes located in the locality in which the local fee is collected.

5) On organized groups of school children and youth.

17.3. The voivode shall, on the recommendation of the gmina council and upon consulting the minister for

environmental protection, natural resources, and forestry, identify the localities meeting the criteria referred to in Paragraph 1 in which the local fee is levied.

Article 18. The gmina council may levy an administrative fee for the official activities performed by gmina offices if such activities are not covered by the regulations governing Treasury fees.

Article 19. The gmina council:

1) Determines the guidelines for assessing and collecting and the deadlines for the payment of the fees referred to in the present law, with the proviso that:

a) The assessed open-market fee may not exceed 600,000 zlotys daily.

b) The assessed local fee may not exceed 1,350 zlotys daily.

c) The assessed administrative fee may not exceed 200,000 zlotys.

2) Orders the collection of these fees by means of assessment and names the collectors and the remuneration they are to receive.

3) May introduce other exemptions from local fees in addition to those mentioned in the present law.

Chapter 6. Final Provisions

Article 20.1. The ceilings on the assessment rates referred to in Article 5, Paragraph 1; in Article 10, Paragraph 1; in Article 14, Point 1; and in Article 19, Point 1 are, beginning in 1991, subject to being annually raised with each new fiscal year to an extent corresponding to the indicator of the increase in the retail prices of consumer goods and services during the first three quarters of the year in which the rates are subject to an increase, as compared with a like period in the preceding year.

20.2. The minister of finance shall issue an executive order specifying the ceilings of rate assessments for each fiscal year, with allowance for the guideline defined in Paragraph 1.

20.3. The indicator of price increases referred to in Paragraph 1 is determined on the basis of the communique of the chairman of the Central Office of Statistics published in DZIENNIK URZEDOWY RZECZYPOSPOLITEJ POLSKIEJ 'MONITOR POLSKI' within 15 days after the expiration of the third quarter of the year.

Article 21. Whenever separate regulations refer to the road tax, this is to be construed as the tax on means of transportation referred to in the present law.

Article 22. In 1991 the persons and entities referred to in Article 6, Paragraph 8 are obligated to submit the tax declaration mentioned in that paragraph and to pay the real estate tax for January not later than by 15 February 1991.

Article 23. The Law dated 14 March 1985 on Local Taxes and Fees (DZIENNIK USTAW [Dz.U.], No. 12, Item No. 50, 1985; No. 19, Item No. 132, 1988; No. 35, Item No. 192, and No. 74, Item No. 443, 1989; and No. 34, Item No. 198, 1990) is hereby declared null and void.

Article 24. The present law takes effect on the day of its publication and applies to the fees due after that day as well as, beginning with the 1991 fiscal year, to the taxes due.

President of the Polish Republic: L. Walesa

Resolution on Economic Committee of Council of Ministers

91EP0479A Warsaw MONITOR POLSKI in Polish No 8 Item No 55, 1 Mar 91 pp 73-74

[Resolution No. 21 of the Council of Ministers dated 12 February governing the creation of the Economic Committee of the Council of Ministers]

[Text] The Council of Ministers resolves as follows:

Paragraph 1.1. The Economic Committee of the Council of Ministers, hereinafter referred to as "the committee," is hereby established.

1.2. The committee is the body of the Council of Ministers which:

1) Examines drafts of government documents concerning economic matters.

2) Examines drafts of resolutions by ministers—on their recommendation—concerning the economic matters that require interministry coordination.

Paragraph 2. The purposes of the committee include:

1) Examination and evaluation of draft state budgets and financial plans, as well as of assumptions of the socioeconomic policy, economic forecasts, and long-range programs for the state's economic measures concerning the economy as a whole and its selected domains.

2) Submission to the Council of Ministers of periodic assessments of the implementation of the State Budget and the socioeconomic policy.

3) Examination of drafts of normative legal acts addressed to the Council of Ministers, insofar as these drafts concern economic matters of major importance to shaping the economic system.

4) Accomplishment of other tasks entrusted by the Council of Ministers or by the chairman of the Council of Ministers.

Paragraph 3.1. The committee accomplishes its purposes by, in particular, presenting its position on the matters in question to the Council of Ministers or to the chairman of the Council of Ministers.

3.2. To accomplish its purposes, the committee may define the procedures and timetables for implementing them and request appropriate agencies and institutions to provide necessary assistance.

Paragraph 4.1. The committee operates on the basis of plans of work approved by the Council of Ministers, which in particular specify the matters subject to consideration by the committee.

4.2. The committee submits to the Council of Ministers periodic reports on its activities.

Paragraph 5.1. The membership of the committee includes:

1) The chairmen of the committee—the vice chairman of the Council of Ministers and the minister of finance.

2) The minister-director of the Central Planning Office.

3) The minister of land use management and construction.

4) The minister of communications.

5) The minister of labor and social policy.

6) The minister of ownership transformations.

7) The minister of industry.

8) The minister of agriculture and the food industry.

9) The minister of transportation and navigation.

10) The minister of foreign economic cooperation.

11) The undersecretary of state at the Office of the Council of Ministers—the secretary of the committee.

5.2. Sessions of the committee may be attended by members of the Council of Ministers, on their own cognizance, who do not belong to the committee.

5.3. The following participate in the work of the committee:

1) The chairman of the National Bank of Poland.

2) The secretary of the Council of Ministers.

3) The secretary of state at the Ministry of Finance.

4) The chairman of the Agency for Foreign Investments.

5) The chairman of the Central Office of Statistics.

6) The chairman of the Antimonopoly Office.

7) The chairman of the Main Customs Office.

5.4. The committee chairman may invite other persons to participate in the work or sessions of the committee.

Paragraph 6. The committee chairman:

1) Directs the activities of the committee.

2) Presents the committee's positions, opinions, and recommendations to the Council of Ministers or the chairman of the Council of Ministers.

3) Supervises the implementation of the committee's decisions and the work of the committee secretary.

Paragraph 7. The committee secretary:

1) Organizes the work of the committee.

2) Keeps the minutes of the committee's sessions.

3) Keeps records of the matters worked on by the committee and cooperates with the secretary of the Council of Ministers with the object of coordinating the activities of the committee with the work of the Council of Ministers.

Paragraph 8. Administrative services for the committee and the funds needed for its operation are provided by the Office of the Council of Ministers.

Paragraph 9. The committee's operating procedures in matters relating to the drafting of government documents and participation in examining them are defined by the provisions of Resolution No. 20 dated 12 February 1991 of the Council of Ministers Concerning the Operating Rules of the Council of Ministers (MONITOR POLSKI, No. 7, Item No. 47).

Paragraph 10. Resolution No. 178 dated 17 October 1988 of the Council of Ministers Concerning the Formation of the Economic Committee of the Council of Ministers (MONITOR POLSKI, No. 31, Item No. 278, 1988; No. 34, Item No. 262, 1989; and No. 35, Item No. 283, and No. 40, Item No. 315, 1990) is hereby declared null and void.

Paragraph 11. The present resolution takes effect on the day of its adoption and is subject to publication in DZIENNIK URZEDOWY RZECZYPOSPOLITEJ POLSKIEJ 'MONITOR POLSKI.' Chairman of the Council of Ministers: J. K. Bielecki

Order on Use of Police, Armed Forces, Firearms

91EP0480A Warsaw DZIENNIK USTAW in Polish No 26 Item No 104, 30 Mar 91 pp 369-370

[Executive Order of the Council of Ministers dated 5 March governing detailed principles and conditions for using units and subunits of the Police and the Armed Forces of the Republic of Poland in the event of threats to public safety or dangerous disturbances of public order and the guidelines for the use of firearms by these units]

[Text] Pursuant to Article 17, Paragraph 4 and Article 18, Paragraph 4 of the Law dated 6 April 1990 on the Police (Dz.U. [DZIENNIK USTAW], No. 30, Item No. 179), the following is hereby ordered:

Paragraph 1. The use of armed units and subunits of the Police, hereinafter referred to as "the Police," in cases referred to in Article 18, Paragraph 1 of the Law dated 6 April 1990 on the Police (Dz.U., No. 30, Item No. 179), hereinafter referred to as "the law," should be suited to the extent of the threat to public safety or a dangerous disturbance of public order and to the anticipated unfolding of the situation.

Paragraph 2.1. The executive order of the chairman of the Council of Ministers or the decision of the minister of internal affairs to use Police units is implemented by the commanding officer of the Police through the mediation of the concerned voivodship Police commanders and commanders of Police units.

2.2. The voivodship Police commander, in implementing the executive order or the decision referred to in Paragraph 1, notifies the voivode.

Paragraph 3.1. Instruction to use the means of direct coercion referred to in Article 16, Paragraph 1 by Police units is issued by the voivodship Police commander. These means are used when so ordered by the unit commander.

3.2. The instruction referred to in Paragraph 1 is not required in the event that a delay means endangering human life, health, or property, and also in the event of the danger of an assault against the sites, facilities, missions, and offices referred to in Article 17, Paragraph 1, Point 2 of the Law dated 6 April 1990 on the Police.

3.3. Before ordering the use of means of direct coercion, the Police unit commander is obligated to:

1) Summon to law-abiding behavior, and in particular summon to throw down weapons or dangerous instruments, desist from lawless action, or desist from the use of force.

2) Warn of the imminent use of means of direct coercion.

3.4. The provisions of Paragraph 3 do not apply in the situations referred to in Paragraph 2.

Paragraph 4.1. Police units have the right to resort to firearms in the cases referred to in Article 17, Paragraph 1 and Article 18, Paragraph 1 of the Law dated 6 April 1990 on the Police, if the means of direct coercion applied prove insufficient.

4.2. The order to use firearms by a Police unit is issued by the unit's commander upon being so instructed by the voivodship Police commander.

4.3. The instruction referred to in Paragraph 2 is not required when any delay threatens direct peril to human life.

4.4. Before issuing an order to use firearms for a particular purpose, the Police unit commander is dutybound to:

1) Repeat the summons to law-abiding behavior.

2) Threaten the use of firearms.

3) Issue an order to fire warning shots (salvoes) into the air.

4.5. The provisions of Paragraph 4 are not, with the exception of Point 3, applied in a situation referred to in Paragraph 3.

Paragraph 5. Firearms are not used in the cases referred to in Article 17, Paragraph 1, Points 6-8 of the Law dated 6 April 1990 on the Police with respect to obviously pregnant women, persons whose appearance suggests that they are no older than 13 years, the elderly, and clearly disabled persons.

Paragraph 6.1. A Police unit ceases to use means of direct coercion or firearms upon the order of its commander or superior officer immediately upon accomplishing the purpose for which said means or firearms were used.

6.2. Police units are withdrawn immediately after accomplishing their task.

Paragraph 7. In the event that a Police unit is scattered so that its personnel lose contact with the unit commander, the personnel have the right to use firearms (in the cases referred to in Article 17, Paragraph 1, Points 1-4 of the Law dated 6 April 1990 on the Police) upon meeting the requirements of the Executive Order dated 17 September 1990 of the Council of Ministers Concerning the Detailed Conditions and Procedure for the Use of Firearms by Police Personnel (Dz.U., No. 70, Item No. 411).

Paragraph 8.1. The use of units and subunits of the Armed Forces of the Polish Republic to help the Police, as envisaged in Article 18, Paragraph 3 of the Law dated 6 April 1990 on the Police, pursuant to a decision by the president of the Polish Republic, is ordered by the ministers of national defense and internal affairs with respect to the military units under their jurisdiction. The provisions of Paragraph 1 apply correspondingly.

8.2. The units and subunits of the Armed Forces of the Polish Republic assigned to help the Police and hereinafter referred to as "units of the Armed Forces," may be used in particular to:

1) Protect and defend the facilities referred to in Article 17, Paragraph 1, Point 2 of the Law dated 6 April 1990 on the Police.

2) Protect or isolate specified facilities, roads, and streets or parts of cities.

3) Support the activities of the Police units restoring public safety and order, when this proves indispensable.

8.3. While performing their duties, units of the Armed Forces remain part of the organizational structure and

the military system of command. In operations to protect specified areas units of the Armed Forces are allocated segments of these areas or autonomous tasks, and while supporting the operations of the Police, they are allocated specific related tasks. In each case the concerned commander of a unit of the Armed Forces coordinates operations with the commander of the Police unit.

Paragraph 9.1. Units of the Armed Forces have the right to use means of direct coercion and firearms in the same cases and on the same terms and by the same procedure as Police units.

9.2. The use of means of direct coercion and firearms by a unit of the Armed Forces is ordered by the unit's commander on the basis of an instruction from the minister of national defense or the minister of internal affairs, issued to the military units under their respective jurisdiction.

Paragraph 10.1. The use of units of the Police and Armed Forces is documented with the aid of audiovisual devices.

10.2. Documenting the use of units of the Police and Armed Forces lies within the province of the concerned voivodship police commander. In documenting the actions of units of the Armed Forces he cooperates with the offices of the Military Gendarmerie.

Paragraph 11.1. If the use of means of direct coercion or firearms results in wounding a person, the concerned commander is duty-bound to ensure the immediate provision of first aid as well as of medical care.

11.2. In cases referred to in Paragraph 1 or in the event that the use of means of direct coercion or firearms results in the death of a person or persons or damage to property, the Police unit commander is duty-bound to secure pertinent evidence and the identities of witnesses.

11.3. If the use of means of direct coercion or firearms results in the death or wounding of a person or persons, the concerned commander immediately notifies his superior and the appropriate public prosecutor.

Paragraph 12. Upon completing their operations, Police and Armed Forces unit commanders are duty-bound to prepare detailed written reports. Copies of these reports are transmitted to the concerned voivode.

Paragraph 13.1. Investigating whether the use of means of direct coercion or firearms by Police units took place in compliance with the provisions of law is a duty of:

1) The commanding officer of the Police, in cases in which the means of direct coercion or firearms were used upon instruction by the voivodship Police commander.

2) The voivodship Police commander, in all other cases.

13.2. Investigating whether the use of means of direct coercion or firearms by units of the Armed Forces took place in compliance with the regulations is a duty of the appropriate military agencies.

Paragraph 14. The present Executive Order takes effect on the day of its publication.

Chairman of the Council of Ministers: J. K. Bielecki

Proclamation, Law on Office of Public Prosecutor

91EP0481A Warsaw DZIENNIK USTAW in Polish No 25 Item No 103, 27 Mar 91, pp 354-368

[Proclamation of the Ministry of Justice dated 8 March 1991 governing the publication of the uniform text of the law on the Office of the Public Prosecutor dated 20 June 1985]

[Text]

Paragraph 1. Pursuant to Article 12 of the law of 22 March 1990 on amending the Law on the Office of the Public Prosecutor of the People's Republic of Poland, the Code of Procedure in Cases of Petty Offenses, and the Law on the Supreme Court (Dz.U. [DZIENNIK USTAW], No. 20, Item No. 121), the appendix to this proclamation contains the uniform text of the Law dated 20 June 1985 on the Office of the Public Prosecutor (Dz.U., No. 31, Item No. 138), with allowance for the:

1) Amendments incorporated by the:

a) Law dated 31 January 1989 on the Funding of Salaries Paid Out of the State Budget (Dz.U., No. 4, Item No. 24);

b) Law dated 29 December 1989 on Amending the Constitution of the Polish People's Republic (Dz.U., No. 75, Item No. 444);

c) Law dated 22 March 1990 on Amending the Law on the Office of the Public Prosecutor of the Polish People's Republic, the Code of Procedure in Cases of Petty Offenses, and the Law on the Supreme Court (Dz.U., No. 20, Item No. 121);

d) Law dated 14 December 1990 on the Abolition and Dissolution of Certain Funds (Dz.U., No. 89, Item No. 517);

2) Amendments ensuing from the following regulations published prior to the date of issuance of the uniform text:

a) Law dated 8 March 1990 on Local Governments (Dz.U., No. 16, Item No. 95; No. 32, Item No. 191; No. 34, Item No. 199; No. 43, Item No. 253; and No. 89, Item No. 518, 1990; as well as No. 4, Item No. 18, 1991);

b) Law dated 22 March 1990 on Local Offices of the General Government Administration (Dz.U., No. 21, Item No. 123);

c) Law dated 10 May 1990—Regulations introducing the Law on Local Governments and the Law on Employees of Local Governments (Dz.U., No. 32, Item No. 191; No. 43, Item No. 253; and No. 92, Item No. 541);

and upon following a continuous numbering of articles, paragraphs, and points, as well as the alphabetical order of letters.

Paragraph 2. The uniform text of the law provided in the Appendix to this Proclamation does not comprise the following regulations, [which are amended below as follows]:

1) Articles 111-115 and 120 of the Law dated 20 June 1985 on the Office of the Public Prosecutor of the Polish People's Republic (Dz.U., No. 31, Item No. 138), whose text is hereby amended as follows:

"Article 111. In the Law dated 21 May 1963 on Military Discipline and the Accountability of Military Personnel for Breaches of Discipline and Violations of Soldierly Honor and Dignity (Dz.U., No. 23, Item No. 101, 1977), in Article 48, 'investigating officers' is crossed out and 'assistant prosecutors' is inserted in lieu thereof; likewise 'investigating officer' is crossed out and 'assistant prosecutor' is inserted in lieu thereof.

"Article 112. In the Code of Penal Procedure the following amendments are incorporated:

"1) In Article 578, Paragraph 1, 'the investigating officer of the Office of the Public Prosecutor' is crossed out and 'the assistant prosecutor of the military organizational unit of the Office of the Public Prosecutor' is inserted in lieu thereof.

"2) In Article 587, Paragraph 1, 'to the investigating officer' is crossed out and 'to the assistant prosecutor' is inserted in lieu thereof.

"Article 113. In Article 30 of the Punishment Execution Code 'and the public prosecutor' is crossed out.

"Article 114. In the Decree dated 12 December 1981 on Transferring to the Competence of the Military Courts Cases Concerning Certain Crimes and on Altering the Organizational Structure of Military Courts and Military Organizational Units of the Office of the Public Prosecutor of the People's Republic of Poland in the Presence of Martial Law (Dz.U., No. 29, Item No. 157), in Article 8, Paragraph 1, and Article 9, Paragraph 2, 'investigating officers' is crossed out and 'assistant prosecutors' is inserted in lieu thereof.

"Article 115.1. Persons holding the positions of assistant public prosecutors with the civilian or military organizational units of the Office of the Public Prosecutor are, on the effective date of the present law, subject to appointment to the positions of deputy public prosecutors at the appropriate organizational units of the Office of the Public Prosecutor.

"115.2. Persons holding the positions of investigating officers at military organizational units of the Office of the Public Prosecutor are, on the effective date of the present law, subject to appointment to the positions of assistant prosecutors at the military organizational units of the Office of the Public Prosecutor.

"Article 120. The present law takes effect on 1 September 1985."

2) Article 12 of the Law dated 31 January 1989 on Funding the Salaries Paid Out of the State Budget (Dz.U., No 4. Item No. 24), as follows:

"Article 12. The present law takes effect on the day of its publication and is retroactive to 1 January 1989."

3) Articles 2 and 5 of the Law dated 29 December 1989 on Amending the Constitution of the Polish People's Republic (Dz.U., No. 75, Item No. 444), as follows:

"Article 2. Until the law referred to in Artricle 64, Paragraph 3, of the Constitution takes effect, but not later than by 31 March 1990, the Office of the Public Prosecutor continues to operate in accordance with the existing guidelines."

"Article 5. The present law takes effect on the day of its publication."

4) Articles 5-11 and 13 of the Law dated 22 March 1990 on Amending the Law on the Office of the Public Prosecutor of the People's Republic of Poland, the Code of Procedure in Cases of Petty Offenses,and the Law on the Supreme Court (Dz.U., No. 20, Item No. 121), as follows:

"Article 5.1. The public prosecutors and deputy public prosecutors of the Office of the Public Prosecutor General exercise, as of the day on which the present law takes effect, the duties of public prosecutors at the Office of the Voivodship Public Prosecutor in Warsaw.

"5.2. Administrative and custodial personnel of the Office of the Public Prosecutor General are, as of the day on which the present law takes effect, employed by the public prosecutor general at the Ministry of Justice, at the Office of the Voivodship Public Prosecutor in Warsaw, or at the Voivodship Court in Warsaw, depending on their professional qualifications.

"5.3. The public prosecutors and administrative appointees referred to in Paragraphs 1 and 2 may, within three months from the date the present law takes effect, submit to the prosecutor general a written declaration declining continued employment. In this event the labor relationship is terminated within three months from the date the declaration is submitted, on the last day of the calendar month. Contractual administrative and custodial employees may, within the same period of time, submit a declaration terminating their labor relationship or a request to terminate it by agreement of both parties, which should be acted upon within a period of time not longer than the period mandatory in such cases. The

termination of the labor relationship on the principles specified in this subparagraph entails the consequences attributed by legal regulations to the termination of a labor relationship by a workplace owing to the shutdown of the workplace.

"5.4. Public prosecutors and employees referred to in Paragraphs 1 and 2 retain for a period of six months the right to a salary corresponding to the positions they had previously held, should they be appointed, at the Ministry of Justice, at the Office of the Voivodship Public Prosecutor, or at the Voivodship Court in Warsaw, or at another organizational unit of the Office of the Public Prosecutor, or at another court of law, to positions entailing a lower base salary, or a lower functional salary allowance, or lacking a salary allowance.

"Article 6.1. Not later than by 30 June 1990 the public prosecutor general shall appoint:

"1) Public prosecutors and deputy public prosecutors at the Office of the Public Prosecutor General, who had held these positions on the effective date of the present law—to the positions of public prosecutors at offices of voivodship public prosecutors corresponding to their domiciles.

"2) Public prosecutors and deputy public prosecutors at the offices of voivodship and district public prosecutors, who had held these positions on the effective date of the present law—to the positions of public prosecutors at the offices of voivodship and district public prosecutors appropriate for their domiciles

"—if they meet the requirements defined in Article 16, Paragraph 1 (Article 14, Paragraph 1) (Footnote: The numbers in parentheses are as numbered in the uniform text of the Law on the Office of the Public Prosecutor) of the Law on the Office of the Public Prosecutor;

"6.2. The labor relationship with the public prosecutors whom the public prosecutor general does not appoint to new positions expires on 30 September 1990; the persons thus discharged are eligible for the remuneration referred to in Article 13, Paragraph 1, Point 2, of the Law on Employees of Government Offices.

"6.3. Not later than by 30 June 1990 the public prosecutor general shall, in consultation with the minister of national defense, appoint the prosecutors for service at military organizational units of the Office of the Public Prosecutor who had held their positions on the effective date of the present Law, to the positions of prosecutors at the military organizational units of the Office of the Public Prosecutor appropriate for their domiciles, provided that they meet the requirements of Article 16, Paragraphs 1 and 2 (Article 14, Paragraphs 1 and 2).*

"6.4. Prosecutors serving at military organizational units of the Office of the Public Prosecutor whom the public prosecutor general does not appoint to positions as public prosecutors with these units are transferred to other service posts in the Armed Forces or, in the event they do not consent thereto, discharged from professional military service upon their retaining all the rights belonging to discharged military personnel for reasons which do not cause forfeiture of these rights.

"6.5. Public prosecutors and other employees referred to in Article 5, Paragraphs 1 and 2, who submitted the declarations referred to in Article 5, Paragraph 3, as well as public prosecutors who are not reappointed by the public prosecutor general under Paragraph 1, are eligible for retirement benefits pursuant to the guidelines of Article 27, Paragraph 2, of the Law on Employees of Government Offices, or too if, by the day their labor relationship is terminated, their combined work seniority period, including equivalent periods credited thereto, reaches at least 35 years for women and 40 years for men.

"Article 7.1. The Office of the Public Prosecutor General is hereby abolished.

"7.2. Administrative services for the public prosecutor general are provided by the Ministry of Justice.

"7.3. The Ministry of Justice enters into the legal relations linked to the premises occupied by the Office of the Public Prosecutor General and the units supervised by the public prosecutor general.

"7.4. The property and liquid capital owned by the Office of the Public Prosecutor General are transferred to the disposal of the Ministry of Justice.

"7.5. Paragraphs 3 and 4 do not apply to military organizational units of the Office of the Public Prosecutor.

"Article 8.1. The first sessions of the voivodship assemblies of public prosecutors will be convened after 1 July 1990, but not later than by 1 August 1990.

"8.2. At their first sessions, voivodship assemblies of public prosecutors shall elect members of the collegiums of offices of voivodship public prosecutors and members of the Council of Public Prosecutors under the public prosecutor general.

"8.3. Until the voivodship assemblies of public prosecutors and their collegiums become active, the provisions of Article 22/2/, Point 6) (Article 20, Point 6)* and of Article 22/4/, Points 2 and 4 (Article 22, Points 2 and 4.*

"Article 9.1. The Council of Public Prosecutors under the public prosecutor general shall determine at its first session the date of elections to the Disciplinary Commissions.

"9.2. Until the Disciplinary Commissions are elected under the present law, the Disciplinary Commissions established under the heretofore existing regulations continue to operate.

"9.3. Proceedings in cases not legally completed by the existing Disciplinary Commissions on the day of elections to the Disciplinary Commissions under the present law, are transferred for completion to the latter commissions.

"Article 10. Until the implementing regulations envisaged in the present law are issued, the existing implementing regulations remain binding insofar as they do not conflict with the present law.

"Article 11. Whenever the binding regulations refer to the public prosecutor general of the People's Republic of Poland or to the Office of the Public Prosecutor General, they are to be interpreted as referring to the public prosecutor general or correspondingly to the Ministry of Justice, which handles administrative matters for the public prosecutor general.

"Article 13. The present Law takes effect on 31 March 1990."

5) Article 27 of the Law dated 14 December 1980 on the Abolition and Dissolution of Certain Funds (Dz.U., No. 89, Item No. 517) is reworded as follows:

"Article 27. The present law takes effect on 1 January 1991, with the exception of Articles 5 and 14, which take effect on the day of publication."

Minister of Justice: W. Chrzanowski

Footnote

* The numbers in parentheses are as numbered in the uniform text of the Law on the Office of the Public Prosecutor.

Appendix to the Proclamation dated 8 March 1991 of the Minister of Justice (Item No. 103)

Law dated 20 June 1985 on the Office of the Public Prosecutor

Chapter 1. General Provisions

Article 1.1. The Office of the Public Prosecutor consists of: the public prosecutor general, the first deputy public prosecutor general, the other deputy public prosecutors general, public prosecutors at the Ministry of Justice, and prosecutors serving at civilian and military organizational units of the Office of the Public Prosecutor.

1.2. The public prosecutor general is the supreme officer of the Office of the Public Prosecutor. The duties of the public prosecutor general are exercised by the Minister of Justice.

Article 2. The purpose of the Office of the Public Prosecutor is to monitor adherence of rule of law and supervise law enforcement.

Article 3.1. The purpose referred to in Article 2 is accomplished by the public prosecutor general and by the prosecutors under his jurisdiction by:

1) Handling or supervising preparatory proceedings in criminal cases and exercising the duties of public accuser at trials.

2) Instituting actions in criminal and civil cases and submitting motions and participating in judicial proceedings concerning civil cases, labor cases, and cases pertaining to social insurance, when so required in order to safeguard rule of law, public interests, public property, or the rights of citizens.

3) Taking the legally prescribed steps to assure a correct and equitable application of law in judicial and administrative proceedings, in cases relating to petty offenses, and in other proceedings.

4) Exercising supervision over the implementation of verdicts in criminal cases, rulings on temporary detention, and other decisions concerning deprivation of freedom.

5) Engaging in research into problems of crime and ways of combatting and preventing crime.

6) Instituting legal proceedings in court against unlawful administrative rulings and participating in judicial proceedings on matters of the legality of such rulings.

7) Coordinating the law enforcement activities pursued by other government agencies.

8) Cooperating with government agencies and organizational units as well as with social organizations in the prevention of crime and other violations of law.

9) Evaluating drafts of normative legislation.

10) Engaging in other legally defined activities.

3.2. In cases belonging within the purlieu of military courts and other military bodies, the activities referred to in Paragraph 1 are performed by the prosecutors serving with the military organizational units of the Office of the Public Prosecutor.

Article 4. The public prosecutor general may request the Constitutional Tribunal to issue binding interpretations of laws.

Article 5.1. The public prosecutor general may submit to the Constitutional Tribunal pleas for verifying the consonance of legislative or other normative acts with the Constitution or other legislation, and he participates in the proceedings before the Constitutional Tribunal to the extent and by the procedure determined by a separate law. Before applying to the Constitutional Tribunal for verifying the consonance of a normative act issued by a national or central agency of the state administration, the public prosecutor general requests the issuing agency to amend or waive the act.

5.2. The public prosecutor general takes under advisement the recommendations on matters referred to in Paragraph 1 as addressed to him by citizens, agencies, institutions, or social organizations.

5.3. If a resolution passed by a local government or an ordinance issued by a local office of the general government administration conflicts with law, the public prosecutor requests the the issuing office to amend or waive it, or he recommends its waiving to the concerned superior agency; in the case of a resolution of a local government, the public prosecutor may appeal it to the local administrative court.

Article 6.1. Public prosecutors at civilian organizational units of the Office of the Public Prosecutor are public prosecutors at the voivodship and district offices of public prosecutors.

6.2. Prosecutors at military organizational units are: the military prosecutor general, his deputies, prosecutors attached to the discrete armed services, military prosecutors attached to garrisons, and prosecutors attached to corresponding organizational units of the Office of the Public Prosecutor.

Article 7. A public prosecutor is dutybound to act in conformity with the law, on guiding himself by the principle of impartiality and equal treatment of all citizens.

Article 8.1. In exercising his legally defined duties a public prosecutor is independent, with allowance for the limits of independence defined in Paragraph 2 below.

8.2. A public prosecutor is dutybound to implement the orders, directives, and instructions of his official superior. If, however, an instruction concerns a proceeding already instituted, the public prosecutor may demand that it be handed to him in writing together with a rationale, or revised, or that he be excluded from following the instruction or participating in the proceedings. The final decision on the exclusion is taken by the immediate superior of the higher-ranking prosecutor who had issued the instruction.

Article 9.1. Local government bodies, agencies of state administration and other state organizational units, cooperatives and their unions, and professional, local-government, and other social organizations, provide the public prosecutor general and the public prosecutors subordinate to him with assistance in accomplishing their duties.

9.2. The voivodship or district public prosecutor provides, whether on his own initiative or upon the recommendation of local-government bodies or the appropriate local agencies of the general government administration, these bodies or agencies with information on the status of crime and crime control in the voivodship or gmina (city, borough).

Chapter 2. Organizational Structure of the Office of the Public Prosecutor

Article 10.1. The public prosecutor general directs the activities of the Office of the Public Prosecutor and issues pertinent executive orders, guidelines, and instructions.

10.2. The public prosecutor general may take any action within the scope of activities of the Office of the Public Prosecutor or instruct his subordinate public prosecutors to implement such actions, unless the law reserves particular duties solely to himself.

10.3. A higher-ranking public prosecutor may instruct the public prosecutors subordinate to him to implement actions belonging in his scope of activities unless the law reserves particular duties solely to himself, and he also may implement the duties of his subordinate public prosecutors.

Article 11. Prosecutors serving at the voivodship and district offices of the public prosecutor are appointed by the public prosecutor general, while prosecutors serving with the corresponding military organizational units of the Office of the Public Prosecutor are appointed by the public prosecutor general on the recommendation of the minister of national defense.

Article 12.1. The first deputy and deputy public prosecutors general are appointed and recalled from among public prosecutors by the chairman of the Council of Ministers on the recommendation of the public prosecutor general.

12.2. One of the deputy public prosecutors general is the military prosecutor general, who is appointed and recalled by the chairman of the Council of Ministers on the joint recommendation of the public prosecutor general and the minister of national defense. The military prosecutor general directs on behalf of the public prosecutor general the activities of the military organizational units of the Office of the Public Prosecutor.

Article 13.1. Public prosecutors at the Ministry of Justice are appointed and recalled from among the prosecutors serving with the voivodship offices of the public prosecutor by the public prosecutor general.

13.2. Public prosecutors are appointed to and recalled from the posts of voivodship and district public prosecutors, as well as to other posts at the offices of public prosecutors, by the public prosecutor general, with the proviso of Paragraphs 3 and 4 below and Article 111.

13.3. Deputy military prosecutors in chief, prosecutors serving with the Office of the Military Prosecutor General, military-district prosecutors, and prosecutors serving with branches of the armed services are appointed and recalled by the military prosecutor general on the recommendation of the minister of national defense. Prosecutors are appointed to and recalled from other posts with the military organizational units of the

the Office of the Public Prosecutor by the public prosecutor general in cooperation with the minister of national defense.

13.4. The public prosecutor general may define the duties of posts at voivodship and district public prosecutors' offices to which the voivodship public prosecutor may appoint and recall public prosecutors.

Article 14.1. Persons eligible for appointment to the position of public prosecutor must satisfy the following requirements:

1) Polish citizenship and full civil and citizens' rights.

2) Impeccable integrity.

3) Completed university law studies.

4) Completed internship with a public prosecutor's office or a court.

5) Passed examinations for public prosecutorship or for judgeship.

6) Experience as assistant public prosecutor or assistant judge for at least one year or service with a military organizational unit of the Office of the Public Prosecutor for the period of time prescribed in the regulations governing the military service of career military personnel.

7) At least 26 years of age.

14.2. Only professional or periodic-service officers may be appointed prosecutors at the military organizational units of the Office of the Public Prosecutor.

14.3. The requirements referred to in Paragraph 1, Points 4-6, do not apply to:

1) Professors of law and doctors of juridical sciences teaching at Polish institutions of higher education, at the Polish Academy of Science, and at research institutes of other academic institutions.

2) Judges and the officers who held positions of judges at military courts.

3) Attorneys and legal advisers with at least three years of professional experience.

14.4. The requirements referred to in Paragraph 1, Points 4 and 6, do not apply to notaries public.

Article 15. A person whose spouse plies the profession of an attorney may not be a public prosecutor.

Article 16.1. The public prosecutor general may recall a prosecutor serving with a civilian organizational unit of the Office of the Public Prosecutor if:

1) The prosecutor, although twice administered the disciplinary penalty referred to in Article 67, Paragraph 1, Point 3, or 4, perpetrated an offense while on duty or impaired the dignity of the Office of the Public Prosecutor; before taking a decision the public prosecutor general listens to the prosecutor's explanation, unless this is not feasible, and consults the appropriate voivodship assembly of public prosecutors.

2) The appropriate Medical Commission rules that the prosecutor is permanently unfit to exercise his duties; unjustified refusal by the prosecutor to undergo a medical examination may serve as a reason for his recall.

3) Owing to illness and a paid sickness leave, the prosecutor has not served continuously for a period of more than one year, periods of previous interruption of service for reasons of health and paid sickness leave are included in that period, if the period of active service does not exceed 30 days.

16.2. The public prosecutor general may recall a prosecutor serving with a military organizational unit of the Office of the Public Prosecutor on the recommendation of the minister of national defense in cases in which military service regulations provide for discharge from professional military service.

16.3. The public prosecutor general recalls a prosecutor serving with a civilian organizational unit of the Office of the Public Prosecutor if if he or she has:

1) Resigned from his position as public prosecutor.

2) Passed the 65th year of age, unless the public prosecutor general on his own initiative or on the recommendation of the concerned prosecutor approves continuation in the present position, but for not longer than until the 70th year of age.

3) Entered into a marital union with a person who plies the profession of an attorney and has not discontinued that profession within three months from the date of the marital union.

16.4. The service relationship of the public prosecutor is terminated after three months from the date of the notice of recall, unless a shorter period of time is specified upon the request of the concerned prosecutor.

16.5. A valid ruling of the Disciplinary Commission on expulsion from service as public prosecutor and a valid judicial verdict condemning a public prosecutor to the additional penalty of deprivation of civil rights, prohibition against holding the position of public prosecutor, or degradation, entails by virtue of law the loss of the position of public prosecutor; the service relationship of the public prosecutor is terminated once the ruling or verdict becomes final and valid.

16.6. Public prosecutors are eligible for retirement benefits on reaching the age of 60 if female and 65 if male, collects retirement benefits and pay under the general regulations governing employed retirees. The provisions of Articles 81, 82, and 86 of the Law dated 14 December 1982 on Retirement Benefits for Employees and Their Families (Dz.U., No. 40, Item No. 267, 1982; No. 52,

Items No. 268 and No. 270, 1984; No. 1, Item No. 1, 1986; No. 35, Items No. 190 and No. 192, 1989; No. 10, Items No. 58 and No. 62, No. 36, Item No. 206, No. 66, Items No. 390, and No. 87, Item No. 506, 1990; and No. 7, Item No. 24, 1991) apply in such cases.

Article 17.1. The common [civilian] organizational units of the Office of the Public Prosecutor are the voivodship and district offices of the public prosecutor.

17.2. A voivodship public prosecutor's office is directed by the voivodship public prosecutor, who is the official superior of the prosecutors attached to that office as well as of district public prosecutors and the prosecutors attached to district offices of the public prosecutor in the area of the concerned voivodship.

17.3. A district public prosecutor's office is directed by the district public prosecutor, who is the official superior of the prosecutors attached to that office.

17.4. A voivodship public prosecutor's office is established for one or more voivodships, while a district public prosecutor's office is established for one or more basic-level units of the territorial division within the boundaries of the same voivodship.

17.5. The minister of justice, in cooperation with the minister-chief of the Office of the Council of Ministers, issues executive orders establishing and abolishing voivodship and district offices of the public prosecutor and defining their sites and territorial scope of activities.

17.6. The minister of justice may establish branch offices of voivodship or district offices of the public prosecutor.

17.7. The minister of justice may order the combined administrative and financial operation of a common court of law and a common organizational unit of the Office of the Public Prosecutor by the appropriate common court, if both entities are located in the same locality.

17.8. The military organizational units of the Office of the Public Prosecutor are: the Office of the Military Prosecutor General, the offices of the military district prosecutors, the offices of prosecutors attached to the armed services, and the military garrison prosecutor's offices. As the need arises, other kinds of military organizational units of the Office of the Public Prosecutor may be established.

17.9. The minister of national defense in cooperation with the minister of justice establishes and disbands military organizational units of the Office of the Public Prosecutor and specifies their sites and territorial scope of activities.

Article 18.1. The minister of justice issues executive orders defining the internal operating procedures of the common organizational units of the Office of the Public Prosecutor.

18.2. The minister of justice defines the internal organizational structure of the common organizational units of the Office of the Public Prosecutor and the scope of activities of their secretarial and other administrative offices.

18.3. The minister of national defense in consultation with the minister of justice defines the regulations governing the internal operating procedures at military organizational units of the Office of the Public Prosecutor and their internal organizational structure.

Article 19.1. The voivodship assembly of public prosecutors consists of the prosecutors attached to the voivodship office of the public prosecutor and delegates of the prosecutors attached to district offices of the public prosecutor active in the voivodship concerned. Said delegates, in a number equal to that of the prosecutors serving with the voivodship office of the public prosecutor, are elected for a term of two years by assemblies of prosecutors from district offices of the public prosecutor. The minister of justice defines the pertinent electoral rules.

19.2. The chairman of the voivodship assembly of public prosecutors is the voivodship public prosecutor.

19.3. Sessions of the voivodship assembly of public prosecutors are convened by the voivodship public prosecutor on his own initiative or on that of the public prosecutor general, the Collegium of the Voivodship Office of the Public Prosecutor, or at least one-fifth of the assembly's membership.

Article 20. The voivodship assembly of public prosecutors:

1) Listens to the report by the voivodship public prosecutor on the activities of offices of the public prosecutors and on the performance of public prosecutors, and expresses its opinion on these matters.

2) Determines the number and elects two-thirds of the members of the Collegium of the Voivodship Office of the Public Prosecutor.

3) Elects a representative to the Council of Public Prosecutors under the public prosecutor general.

4) Elects members of disciplinary committees.

5) Defines the directions of work of the Collegium of the Voivodship Office of the Public Prosecutor and considers reports on the activities of that collegium.

6) Expresses its opinion on candidates for voivodship and district public prosecutors.

7) Expresses its opinion on other matters presented thereto by the voivodship public prosecutor or by the Collegium of the Office of the Voivodship Public Prosecutor.

Article 21.1. The Collegium of the Office of the Voivodship Public Prosecutor consists of from four to 10

members, with two-thirds elected by the voivodship assembly of public prosecutors and one-third appointed by the voivodship public prosecutor from among public prosecutors. The chairman of the Collegium of the Office of the Voivodship Public Prosecutor is the voivodship public prosecutor.

21.2. The term of office of the Collegium of the Office of the Voivodship Public Prosecutor is two years.

21.3. Sessions of the Collegium of the Office of the Voivodship Public Prosecutor are convened by the voivodship public prosecutor on his own initiative or upon the request of at least one-third of members of the collegium.

Article 22. The Collegium of the Office of the Voivodship Public Prosecutor:

1) Considers recommendations ensuing from inspections and audits of offices of public prosecutors.

2) Expresses its opinion on candidates for assistant public prosecutors and public prosecutors at the offices of voivodship and district public prosecutors.

3) Drafts the list of candidates for internships with offices of public prosecutors.

4) Expresses its opinion on matters concerning recalls of public prosecutors from their positions or from the duties performed.

5) Expresses its opinion on other matters presented by the voivodship public prosecutor.

Article 23.1. The Council of Public Prosecutors under the public prosecutor general consists of representatives elected from among public prosecutors by voivodship assemblies of public prosecutors, five representatives elected by public prosecutors at the Ministry of Justice from among themselves, and five public prosecutors designated by the the public prosecutor general. The chairman of the council is the public prosecutor general.

23.2. The term of the council is four years.

23.3. Sessions of the council are convened by the public prosecutor general on his own initiative or on the request of at least one-third of the council's membership.

23.4. The council operates in accordance with its own by-laws.

Article 24. The Council of Public Prosecutors under the public prosecutor general:

1) Considers draft directives on the basic directions of action of the Office of the Public Prosecutor as regards: monitoring adherence to rule of law, prosecuting crime, preventing crime, and other major directives and executive orders of the public prosecutor general.

2) Evaluates the status and development of the cadres of public prosecutors and the directions of the training of public prosecutors and their assistants and interns.

3) Periodically evaluates the implementation of tasks by the Office of the Public Prosecutor.

4) Define the directions of action of the upgrading of professional qualifications of public prosecutors and of improvements in their performance.

5) Defines the overall number of members of Disciplinary Commissions and indicates the number of the Disciplinary Commission members that can be elected by voivodship assemblies of public prosecutors.

6) Considers and comments upon other matters presented by the public prosecutor general.

Chapter 3. Activities of the Office of the Public Prosecutor

Preparatory Proceedings

Article 25.1. Pursuant to the regulations, a public prosecutor institutes and conducts preparatory proceedings or recommends instituting or conducting these proceedings to another authorized agency.

25.2. In the course of the preparatory proceedings the public prosecutor applies, in legally prescribed cases, preventive means toward suspects.

25.3. Temporary detention or bail may be ordered only after the interrogation of the suspect by the public prosecutor, unless the suspect is in hiding.

Article 26.1. The public prosecutor supervises the preparatory proceedings conducted by other authorized agencies. The related orders issued by the public prosecutor are binding.

26.2. In the event of failure to execute the orders referred to in Paragraph 1, the official superior of the responsible official institutes, upon the demand of the public prosecutor, service or disciplinary proceedings against him or her.

Article 27.1. In the event that the preparatory proceedings reveal the existence of circumstances favorable to the perpetration of a crime or complicating the identification of the crime, the public prosecutor applies to the appropriate agency.

27.2. In his application to the appropriate agency the public prosecutor may also demand an inspection or institute against the culprits proceedings concerning disciplinary, official, material, or other responsibility envisaged in the regulations governing the relationship between employer and employee.

Article 28.1. In the event that preparatory proceedings are quashed, the public prosecutor may, depending on the circumstances, transmit the case to the appropriate

agency with the object of instituting service or disciplinary proceedings, or proceedings concerning petty offenses, or with the object of having the case examined by the appropriate social or professional organization.

28.2. The provisions of Paragraph 1 apply correspondingly in the event of refusal to institute preparatory proceedings, and also in the event the matter is transmitted to a court together with a bill of indictment.

Article 29.1. The directives of the public prosecutor general concerning preparatory proceedings are binding to all the agencies authorized to conduct preparatory proceedings.

29.2. The normative acts issued by ministers concerning preparatory proceedings require prior coordination with the public prosecutor general, while the acts issued by local offices of the general government administration require prior coordination with the voivodship public prosecutor.

29.3. The ministers supervising the agencies authorized to conduct preparatory proceedings are dutybound to present to the public prosecutor general annual reports on the activities of these agencies with respect to preparatory proceedings.

29.4. Local offices of the general government administration are dutybound to present the reports referred to in Paragraph 3 to the appropriate voivodship public prosecutors.

29.5. The reports referred to in Paragraphs 3 and 4 are submitted by the end of January of the following year.

Article 30.1. The public prosecutor general may request the national and central agencies of state administration to take measures to streamline the performance of their subordinate agencies with regard to preparatory proceedings.

30.2. Voivodship and district public prosecutors may correspondingly request local agencies of the state administration or bodies of local governments to take measures to streamline their performance with respect to preparatory proceedings.

30.3. In the cases referred to in Paragraphs 1 and 2 the agency or body is dutybound to notify the public prosecutor about the measures taken within 30 days from receipt of the notice from the public prosecutor.

Article 31. In matters within the jurisdiction of military courts the military prosecutor general and his subordinate military prosecutors may, by analogy with the provisions of Article 29, Paragraphs 1 and 2, correspondingly request military agencies to streamline their performance with respect to preparatory proceedings.

Participation of the Public Prosecutor in Judicial Proceedings

Article 32.1. The public prosecutor acts as the public accuser before any court of law. He may also acts in that capacity in cases brought before a court by other accusers.

32.2. In the event that the judicial proceedings do not result in corroborating the charges contained in the bill of indictment, the public prosecutor drops the bill of indictment.

32.3. In legally prescribed cases, the public prosecutor lodges an appeal against a judicial verdict.

Article 33. The public prosecutor general, in legally prescribed cases, lodges with the Supreme Court an extraordinary appeal against a valid judicial verdict. In cases belonging in the jurisdiction of military courts the corresponding powers belong to the military prosecutor general.

Article 34.1. The public prosecutor general submits to the Supreme Court recommendations concerning the court's supervision of the rulings of common and special courts.

34.2. In particular, the public prosecutor general submits recommendations for adopting resolutions intended to clarify dubious legal provisions or provisions whose application may cause conflicting judicial rulings.

34.3. The public prosecutor general also presents his position on proposals to adopt the resolutions referred to in Paragraph 2 when submitted by other authorized agencies.

Supervision Over the Execution of Verdicts in Criminal Cases as Well as of Rulings and Decisions on Deprivation of Liberty

Article 35. The public prosecutor exercises, within the legally prescribed bounds, supervision over the execution of verdicts in criminal cases, rulings on temporary detention and other rulings and decisions on deprivation of liberty.

Article 36. Penitentiary supervision by the public prosecutor over institutions housing persons deprived of their liberty comprises chiefly monitoring the legality of the incarceration of these persons and of the execution of the penalty of deprivation of liberty, as well as of all rulings and decisions on deprivation of liberty.

Article 37. The public prosecutor has the right of entry at any time into the premises of the institution housing persons deprived of their liberty, as well as the right to inspect records and demand explanations from the wardens of the institutions and to speak with the incarcerated individuals and investigate their complaints and proposals.

Article 38.1. In the event that deprivation of liberty is found to be conflicting with law, the public prosecutor orders immediate release of the incarcerated individual.

38.2. The public prosecutor may suspend the execution of any decision by the administration of the institution housing individuals deprived of their liberty, should that decision concern these individuals and conflict with law. The public prosecutor immediately notifies accordingly the agency superior to the administration of the institution.

Article 39.1. The public prosecutor general submits to the president recommendations concerning the pardoning of persons sentenced by the courts.

39.2. With regard to recommendations on the pardoning of persons sentenced by military courts, the right referred to in Paragraph 1 also belongs to the military prosecutor general.

Research Into Crime-Related Problems and Measures Promoting Crime Control and Crime Prevention

Article 40.1. Should the findings of the research so warrant, the public prosecutor general applies to the appropriate agency to take corresponding measures, including also the issuance or revision of specific regulations with the object of counteracting crime.

40.2. The objectives referred to in Paragraph 1 also are implemented by voivodship and district public prosecutors with respect to local offices of the state administration and other local agencies.

40.3. The agency to which a public prosecutor applies for the purposes referred to in Paragraphs 1 and 2 is dutybound to notify the prosecutor of the measures correspondingly taken, within 30 days from the date of the request.

Article 41.1. With regard to crimes belonging within the purlieu of military courts, the actions referred to in Article 40, Paragraph 1, may also be taken by the military prosecutor general.

41.2. The actions referred to in Article 40 may also be taken, within the scope of their activities, by military district prosecutors, prosecutors attached to the armed services, and military garrison prosecutors.

Participation of the Public Prosecutor in Other Proceedings

Article 42. The participation of the public prosecutor in civil and administrative proceedings, in cases concerning petty offenses, and in other proceedings is defined by separate regulations.

Article 43.1. If so required in the interest of safeguarding rule of law, in the cases referred to in Article 42, a public prosecutor may also demand the sending or presentation of dossiers, documents, and written explanations, interrogate witnesses, and consult experts, and also conduct an examination with the object of elucidating the matter.

43.2. The activities referred to in Paragraph 1 are governed by the corresponding provisions of the Code of Administrative Procedure.

Chapter 4. Public Prosecutors: Rights and Duties

Article 44.1. A public prosecutor is dutybound to act in conformity with his oath of office and continually to upgrade his professional qualifications.

44.2. Whether on duty or off duty, a public prosecutor should always respect the dignity of the office he holds and avoid anything that might impair that dignity or weaken confidence in his impartiality.

44.3. While he holds the office, a public prosecutor may not belong to any political party or take part in any political activity. The prohibition against political activity does not apply to deputies and senators.

Article 45.1. The service relationship of the public prosecutor commences at the moment he is notified of his appointment.

45.2. The public prosecutor should take office within 14 days of receipt of the notice of appointment, unless a different deadline is specified.

45.3. In the event of unjustified failure to take office within the period of time referred to in Paragraph 2, the appointment becomes invalid; this circumstance is established by the public prosecutor general.

45.4. Upon being appointed, the public prosecutor swears the following oath in the presence of the public prosecutor general:

"I solemnly swear, while holding the position of public prosecutor entrusted to me, to serve faithfully the Republic of Poland, to guard law and adhere to rule of law, to perform conscientiously the duties of my office, to keep state and service secrets, and in my conduct to guide myself by principles of dignity and integrity."

Article 46. The working hours of the public prosecutor are determined by the scope of his duties.

Article 47.1. Demands, submissions, and complaints on matters relating to his service position, may be presented by a public prosecutor only through official channels. In such cases the public prosecutor may not involve third-party institutions or individuals, and neither may he make them public.

47.2. In matters concerning work-related claims the public prosecutor has the right of resource to law.

47.3. The public prosecutor should immediately notify his official superior about any judicial proceedings in which he participates in the capacity of a party to the proceedings.

Article 48.1. A public prosecutor is dutybound to preserve secrecy on matters concerning which he becomes cognizant in his official capacity, whether in preparatory proceedings or in trials held in camera.

48.2. The duty of preserving secrecy also applies after the employment of the public prosecutor is terminated.

48.3. The duty of preserving secrecy ceases when the prosecutor testifies as a witness in preparatory proceedings or before a court of law, unless disclosure of the secret is detrimental to the good of the state or to an important private interest that does not conflict with the purposes of the administration of justice. In such cases the public prosecutor general may release the prosecutor from the duty of preserving secrecy.

Article 49.1. A public prosecutor may not hold any job other than the office held, with the exception of a scholarly or academic position, provided that holding that position does not interfere with the performance of his duties as a public prosecutor.

49.2. A public prosecutor may not engage in activities which would interfere with the performance of his duties or impair the dignity of his office or undermine confidence in his impartiality.

49.3. The public prosecutor general with respect to prosecutors attached to the Ministry of Justice and voivodship public prosecutors, and the voivodship public prosecutor with respect to the prosecutors attached to the civilian organizational units of the Office of the Public Prosecutor under his jurisdiction, may permit a public prosecutor to engage in activities other than those referred to in Paragraph 2, and he also decides whether holding a scholarly or academic post does not interfere with the public prosecutor's performance of official duties.

Article 50.1. The public prosecutor general may delegate a public prosecutor to another organizational unit of the Office of the Public Prosecutor, to the Ministry of Justice, or to another organizational unit within the jurisdiction of or supervised by the Ministry of Justice, in accordance with his qualifications. Assignment for a period of more than six months in the course of any one year may take place only with the consent of the prosecutor.

50.2. Assignment for a period of up to two months within any one year may also be ordered by a voivodship public prosecutor.

Article 51.1. While inactive owing to illness, a public prosecutor continues to receive his salary, but for not longer than one year. In the event a public prosecutor finds it impossible to exercise his duties for other reasons specified in the regulations governing social security benefits, he is eligible for these benefits.

51.2. While inactive for justifiable reasons, the public prosecutor is entitled to continue to receive his salary.

Article 52.1. A public prosecutor has the right to an annual extra leave amounting to:

1) Six work days after 10 years of work.

2) Twelve work days after 15 years of work.

52.2. The following are credited to the length of work seniority on which hinges the length of extra leave: all periods of employment in the Office of the Public Prosecutor or in a court of law in the capacity of an intern, an assistant public prosecutor, an assistant judge, and a judge, as well as periods of exercise of the profession of an attorney, a legal adviser, or in the capacity of an executive dealing with law practice at a government agency, as well as other periods of work involving eligibility for a longer leave.

Article 53.1. A public prosecutor may be granted a paid leave to salvage his health or to attend to important family or personal matters.

53.2. A leave to salvage health may not exceed six months, while a leave for other reasons may not exceed one month during any one calendar year.

53.3. A leave to salvage health may not be granted if the public prosecutor has been inactive for a year owing to illness.

53.4. Leaves to salvage health are granted by the public prosecutor general, while leaves for attending to important personal or family matters are granted by the voivodship public prosecutor with respect to his subordinate prosecutors attached to voivodship and district offices of the public prosecutor, and by the public prosecutor general with respect to voivodship public prosecutors and the prosecutors attached to the Ministry of Justice.

Article 54.1. A public prosecutor may not be prosecuted in a criminal judicial or administrative case without permission by the appropriate Disciplinary Commission, nor is his detention allowed without the consent of his official disciplinary superior. This does not apply to detention in flagrante delicto while committing a criminal deed. Until permission to prosecute the prosecutor in a criminal case is issued, only activities brooking no delay may be undertaken, upon immediately notifying the prosecutor's official superior.

54.2. Until the request to prosecute a prosecutor in a criminal case is acted upon, the Disciplinary Commission may recommend an immediate discharge of a prosecutor detained in flagrante delicto.

54.3. The ruling of the Disciplinary Commission refusing permission to prosecute a prosecutor in a criminal case may be appealed within seven days to the Disciplinary Appeals Commission by the agency or person requesting the permission, and by the disciplinary prosecutor.

54.4. For committing a petty offense a public prosecutor bears only disciplinary responsibility.

Article 55. Preparatory proceedings against a public prosecutor are initiated and conducted only by another public prosecutor.

Article 56. A public prosecutor should reside in the locality housing the organizational unit of the Office of

the Public Prosecutor in which he is serving. His official superior may consent to his residing in another locality.

Article 57.1. Public prosecutors are entitled to an extra dwelling area in the form of a separate room, which they retain also upon retirement with a pension or an annuity.

57.2. Wherever binding regulations provide for additional fees for inhabiting a separate room, public prosecutors are exempt from these fees while holding office.

Article 58.1. A public prosecutor may be granted financial assistance to meet his housing needs.

58.2. The minister of justice, in consultation with the minister of finance, shall issue an executive order regulating the guidelines for the planning and utilization of funds for meeting the housing needs of public prosecutors and the requirements for granting the assistance referred to in Paragraph 1.

Article 59.1. Public prosecutors who demonstrate initiative in their work, exercise their duties in a model and conscientious manner, and make special contributions to the performance of service objectives, may be granted awards and distinctions.

59.2. The nature of the awards and distinctions and the procedure for awarding them are determined by the public prosecutor general; promotion to higher rank at an earlier date than envisaged by salary regulations or special regulations may also constitute an award.

Article 60. A public prosecutor who is granted retirement benefits is entitled to retain his professional title on preceding it with the adjective "retired."

Article 61. The official garments worn by the public prosecutors participating in judicial trials are prescribed by the minister of justice.

Article 62. The base salary of public prosecutors at equivalent civilian organizational units of the Office of the Public Prosecutor is the same, and it amounts to, corresponding to the prosecutor's rank, a multiple of the average manufacturing wage; the overall salaries of these prosecutors vary depending on work seniority and duties performed.

62.2. Salaries of public prosecutors are defined in executive orders of the Council of Ministers.

Article 63.1. The most deserving public prosecutors and other employees of the Office of the Public Prosecutor may be honored with the title "Merited Contributor to the Administration of Justice in the Republic of Poland" for meritorious accomplishments during long-time service.

63.2. The honorific referred to in Paragraph 1 is conferred in accordance with the guidelines and procedure defined in the Law on the Structure of the Common Courts.

Article 64. The provisions of Article 45, Paragraphs 1-3, and Articles 46, 47, 49-51, 53-56, 58, 59, and 61 do not apply to military prosecutors. The leave referred to in Article 52 is granted if a military prosecutor has not previously gained the right to the extra leave specified in the regulations governing the military service of the career military.

Article 65.1. In the event that a public prosecutor is drafted into nonprofessional military service, his rights and duties as prosecutor are subject to suspension for the duration of the service. However, he retains his position, and the duration of military service is credited to his seniority record as a public prosecutor.

65.2. Other special rights relating to the service relationship of a public prosecutor drafted for active military service and discharged from that service are regulated by the provisions governing national military training or the provisions governing the military service of the career military.

65.3. A public prosecutor drafted for noncareer military service performs it in the military judiciary, in the military organizational units of the Office of the Public Prosecutor, or in military agencies providing legal services.

Disciplinary Responsibility

Article 66.1. A public prosecutor bears disciplinary responsibility for offenses committed while on duty and for impairing the dignity of his office.

66.2. For abusing freedom of speech while performing his duties in the sense of insulting a party to a trial, its representative or defender, its guardian, a witness, or an interpreter, the public prosecutor bears only disciplinary responsibility, when such insult is prosecuted by private accusation.

Article 67.1. Disciplinary penalties are:

1) Admonition.

2) Reprimand.

3) Discharge from duties exercised.

4) Transfer to another service position.

5) Expulsion from public prosecutorship.

67.2. The imposition of the penalties referred to in Paragraph 1, Points 2-4, entails suspension of opportunities for promotion to higher rank for the next three years and ineligibility during that period for membership in the Collegium of the Office of the Voivodship Public Prosecutor, in the Council of Public Prosecutors, and in the Disciplinary Commission, as well as ineligibility for reinstatement in the lost position during the same period of time.

Article 68.1. Disciplinary proceedings may not be instituted after one year since the offense warranting the penalty was committed, and if instituted they are subject to quashing.

68.2. If, however, the offense committed bears the earmarks of a crime, the period of limitation on disciplinary

proceedings may not be shorter than the period of limitation specified in the provisions of the Criminal Code.

Article 69. The official disciplinary superior is the public prosecutor general with respect to the prosecutors serving with civilian organizational units of the Office of the Public Prosecutor and the prosecutors serving at the Ministry of Justice, and the voivodship public prosecutor with respect to the prosecutors subordinate to him.

Article 70.1. In disciplinary matters judgments are made by Disciplinary Commissions:

1) With regard to to the prosecutors attached to the civilian organizational units of the Office of the Public Prosecutor, and with regard to the prosecutors attached to the Ministry of Justice—by the Disciplinary Commissions acting under the public prosecutor general:

a) In the first instance—the Disciplinary Commission.

b) In the second instance—the Disciplinary Appeals Commission.

2) With regard to the prosecutors attached to the military organizational units of the Office of the Public Prosecutor—the Disciplinary Commission at the Office of the Military Prosecutor General.

70.2. The commissions referred to in Paragraph 1, Point 1, elect chairmen from among their members. The term of office of a commission is four years.

70.3. The chairman and eight members of the Disciplinary Commission at the Office of the Military Prosecutor General are appointed to a term of two years by the public prosecutor general in consultation with the minister of national defense from among candidates elected by the military prosecutors attached to the organizational units of the Office of the Public Prosecutor.

70.4. Members of the Disciplinary Commission are independent in making their rulings and subject only to law.

Article 71.1. A prosecutor may be suspended from duty if the nature of his offense is such as to warrant his immediate removal from office.

71.2. The right of suspension from duty belongs to the disciplinary superior of the prosecutor, and in the military organizational units of the Office of the Public Prosecutor, to the military prosecutor general.

71.3. Suspension from duty ceases by virtue of law if no disciplinary proceedings are instituted against the prosecutor within three months from the date of suspension, and also with the moment of a valid legal termination of such proceedings, unless the Disciplinary Commission waives them earlier.

Article 72.1. For a disciplinary transgression of smaller weight, which does not warrant instituting disciplinary proceedings, the official superior of the prosecutor metes out to him the penalty of admonition for breach of order.

72.2. The penalized prosecutor has the right of appeal to a higher superior the penalty of admonition for breach of order.

Article 73.1. The Disciplinary Commission issues its rulings in a bench composed of three members, while the Disciplinary Appeals Commission issues its rulings in a bench composed of five members.

73.2. The Disciplinary Commission at the Office of the Military Prosecutor General issues its rulings in the first instance in a bench composed of three members, and in the second instance in a bench composed of five members. In the latter case, in the second instance, the commission member who took part in issuing the contested ruling may not participate.

73.3. The bench in a given case is appointed by the chairman of the Disciplinary Commission.

Article 74.1. The disciplinary prosecutor for the Disciplinary Commission is designated from among public prosecutors by the agency requesting the institution of disciplinary proceedings in the matter.

74.2. The disciplinary prosecutor is bound by the directives of the agency which designated him.

Article 75. The defendant may select a defender only from among public prosecutors.

Article 76.1. A disciplinary proceeding takes place in camera. Public prosecutors and assistant judges exercising the functions of public prosecutors may attend the trial.

76.2. The disciplinary verdict may be made public after it is validated by a resolution of the Disciplinary Commission.

76.3. The recording clerk may be a public prosecutor, an assistant judge, or an intern designated by the commission chairman.

Article 77.1. The motion to institute disciplinary proceedings may be lodged by disciplinary superiors, upon a prefatory elucidation of the circumstances needed to identify the earmarks of the offense, and upon the deposition of explanations by the defendant, unless said deposition is not possible.

77.2. In the course of the proceedings before the Disciplinary Commission the disciplinary prosecutor acts as the accuser and lodges and supports an appeal as well.

Article 78.1. Upon receiving a motion to institute disciplinary proceedings, the commission chairman sets the trial date and notifies the disciplinary prosecutor, the defendant, and the defender, and, as the need arises, summons witnesses and experts.

78.2. Disciplinary proceedings in the first instance should e completed within one month from the date the motion to institute them is submitted.

78.3. Unjustified absence of the disciplinary spokesman, the defendant, or the defender, does not halt the examination of the case.

Article 79. If during a trial another offense comes to light, in addition to the offense concerning which the motion to institute proceedings is submitted, the commission may rule on that other offense only with he consent of the disciplinary prosecutor and the defendant or his defender; in the event of absence of consent, the disciplinary superior may submit a separate motion to institute disciplinary proceedings concerning the newly revealed offense.

Article 80. In the event of termination of the service relationship of the accused prosecutor while disciplinary proceedings are under way, the proceedings are continued.

Article 81.1. If the offense bears the hallmarks of a crime, the Disciplinary Commission issues the permission referred to in Article 54, Paragraph 1, which does not halt the course of the disciplinary proceedings.

81.2. Following a valid legal termination of criminal proceedings against a public prosecutor, the court or the prosecutor transmits the dossier of the case to the concerned Disciplinary Commission.

Article 82.1. The rationale for a ruling by the Disciplinary Commission is prepared in writing within seven days from the date the ruling is announced.

82.2. The ruling together with its rationale is handed to the disciplinary prosecutor and the defendant.

Article 83. The ruling of the Disciplinary Commission in the first instance may be appealed by the defendant and the disciplinary prosecutor. The appeal should be considered within seven days from its receipt by the Disciplinary Appeals Commission.

Article 84. The expenses of disciplinary proceedings are borne by the State Treasury.

Article 85. After the ruling is legally validated, the chairman of the Disciplinary Commission transmits a copy of the ruling to the public prosecutor general. The execution of the ruling belongs within the purlieu of the public prosecutor general.

Article 86.1. A copy of a valid ruling imposing a disciplinary penalty is included in the defendant's service record.

86.2. After the elapse of three years from the date of the legal validation of the ruling imposing one of the penalties envisaged in Article 67, Paragraph 1, Points 1-4, and after the elapse of five years from the date of the legal validation of the ruling imposing the penalty envisaged in Article 67, Paragraph 1, Point 5, the public prosecutor general orders, upon the defendant's request, the expunging of the copy of the ruling from the defendant's service record, provided that no other punitive verdict has been issued against the defendant during that period.

Article 87.1. The public prosecutor general may lodge an objection against any valid disciplinary ruling: an objection in disfavor of the defendant may be lodged not later than within six months from the validation of the ruling. The objection may also be lodged by the military prosecutor general if the defendant is a prosecutor serving with a military organizational unit of the Office of the Public Prosecutor.

87.2. The objection is considered by the Disciplinary Appeals Commission in a bench composed of seven members if the defendant is a prosecutor serving with a civilian organizational unit of the Office of the Public Prosecutor or serving at the Ministry of Justice. If the defendant is a prosecutor serving with a military organizational unit of the Office of the Public Prosecutor, the objection is considered by the Disciplinary Commission at the Office of the Military Prosecutor General, in a full bench.

Article 88.1. The public prosecutor general may inspect the activities of Disciplinary Commissions, draw attention to any omissions detected, and demand an explanation or the elimination of the consequences of the omission; these activities may not encroach on the domain in which the members of the Disciplinary Commission are independent.

88.2. The powers referred to in Paragraph 1 also belong to the military prosecutor general with respect to the Disciplinary Commission at the Office of the Military Prosecutor General.

Article 89. In matters not regulated by the present law the appropriate provisions of the Code of Penal Procedure apply to disciplinary proceedings.

Chapter 5. Interns and Assistant Public Prosecutors

Article 90. Internship for public prosecutorship consists in training the intern to properly perform the duties of a public prosecutor, and it lasts two years.

Article 91.1. Persons meeting the requirements of Article 14, Paragraph 1, Points 1-3, may be appointed to internship at a public prosecutor's office.

91.2. Only professional or periodic-service military officers may be appointed to internship with a military organizational unit the Office of the Public Prosecutor.

91.3. Interns with offices of public prosecutors are appointed and discharged by the voivodship prosecutor with regard to civilian organizational units of the Office of the Public Prosecutor, and by the military prosecutor general with regard to military organizational units of the Office of the Public Prosecutor.

Article 92. Before starting service the intern at a civilian organizational unit of the Office of the Public Prosecutor swears an oath before the voivodship prosecutor in conformity with the text of the oath prescribed for employees of government offices.

Article 93. An intern may act before a district court in the capacity of a public accuser in cases concerning simplified proceedings.

Article 94.1. Upon completion of internship the intern is required to take an examination before a commission appointed by the public prosecutor general. In the event

the examination is not passed, the intern may retake it at another time, but not later than within six months.

94.2. The voivodship prosecutor with regard to interns with civilian organizational units of the the Office of the Public Prosecutor, and the prosecutor of the military district or of an armed service with regard to interns with military organizational units of the Office of the Public Prosecutor, may grant permission to take the examination at a period later than that specified in Paragraph 1, but not later than within the subsequent three months.

94.3. Approval of the retaking of the examination by interns serving with the military organizational units of the Office of the Public Prosecutor does not imply prolongation of military service.

94.4. Upon passing the examination for public prosecutor the intern may be appointed to the position of assistant public prosecutor.

94.5. In the event of the intern's failure to take the examination, an unsatisfactory final examination score, or failure to appoint him to the position of assistant public prosecutor owing to the absence of opportunities for upgrading the qualifications for exercising the duties associated with that position:

1) The service relationship of the intern with a civilian organizational unit of the Office of the Public Prosecutor is terminated after three months from the date of the notice of discharge, unless a shorter period of termination is determined upon the intern's request.

2) An intern with a military organizational unit of the Office of the Public Prosecutor is reassigned to other service in the armed forces, unless, under the provisions of the present law or under the regulations governing military service, he is subject to discharge from professional or periodic military service.

Article 95. Appropriate provisions of Article 46, Article 47, Paragraph 1, Article 62, and Article 65, apply to interns with civilian organizational units of the Office of the Public Prosecutor.

Article 96. Interns with civilian organizational units of the Office of the Public Prosecutor bear responsibility for keeping order as well as disciplinary responsibility pursuant to the guidelines binding appointive government employees.

Article 97. The minister of justice issues executive orders defining the guidelines and procedure for: appointing interns, changes in conditions of work, and termination of employment, as well as the specific duties relating to the position of the intern, the organization of internship at offices of public prosecutors, the scope of examinations for the position of public prosecutor, the composition of the Examination Commission, the procedure for appointing its members and the salaries and operating procedure of the commission. In the case of the military organizational units of the Office of the Public Prosecutor corresponding orders are issued by the minister of justice in consultation with the minister of national defense.

Article 98. Assistant public prosecutors with civilian organizational units of the Office of the Public Prosecutor are appointed and discharged by the public prosecutor general, while assistant public prosecutors with military organizational units of the Office of the Public Prosecutor are appointed and discharged by the military prosecutor general.

Article 99.1. The public prosecutor general may charge an assistant public prosecutor serving at a civilian organizational unit of the Office of the Public Prosecutor with the duties of a public prosecutor for a period of two years—and the military prosecutor general may do the same with respect to an assistant public prosecutor serving at a military organizational unit of the Office of the Public Prosecutor. However, such appointees may not:

1) Participate in proceedings before a voivodship court.

2) Draft appeals and recommendations for the Supreme Court or plead before that court.

3) Order temporary detention.

99.2. An assistant public prosecutor who lacks the right to exercise the duties of a public prosecutor may act as a public accuser in cases concerning simplified proceedings.

Article 100.1. Assistant public prosecutors at the civilian organizational units of the Office of the Public Prosecutor are governed by the corresponding regulations governing public prosecutors with these units, and assistant public prosecutors at the military organizational units of the Office of the Public Prosecutor are governed by the corresponding regulations governing public prosecutors with those units.

100.2. The public prosecutor general may, on adhering to the three-month advance notice requirement, discharge from service an assistant public prosecutor serving with a civilian organizational unit. The provisions of Article 16, Paragraph 3, Points 1 and 3 apply correspondingly.

Chapter 6. Administrative and Custodial Employees

Article 101.1. Civilian organizational units of the Office of the Public Prosecutor employ administrative and custodial employees.

101.2. The duties and rights of the employees referred to in Paragraph 1 are defined in the regulations governing employees of government offices.

Chapter 7. The Employee Council

Article 102. Public prosecutors, assistant public prosecutors, interns, and administrative and custodial employees serving at civilian organizational units of the

Office of the Public Prosecutor but not belonging to trade unions elect Employee Councils.

Article 103. The purpose of the Employee Council is to protect and represent the professional, occupational, and social interests of the employees as well as to promote activities intended to improve their living, social, and cultural conditions.

Article 104. The Employee Council also engages in activities intended to promote an improved organization of labor, to perform employee duties conscientiously and thoroughly, and to follow the rules of interpersonal coexistence.

Article 105.1. The Employee Council is elected by a general meeting of public prosecutors and other employees of the Office of the Public Prosecutor for a term of two years by secret balloting; the general meeting may recall a member of the Employee Council, or the entire council, before the expiration of that term.

105.2. Voivodship and district public prosecutors may not be members of the Employee Council.

Article 106. The operating rules and procedure of the Employee Council, the procedure for its election, and the number of its members are defined in its statute as passed by the Employee Council.

Article 107.1. The Employee Council has the right to present its opinion on all matters concerning its scope of activities.

107.2. The public prosecutor general, the voivodship prosecutors, and the district prosecutors, are duty bound to provide Employee Councils with the conditions enabling them to accomplish their purposes, and in particular to provide them with needed information and access to records concerning employee affairs, as well as to provide them within appropriate periods of time with the information they need to take a position on one issue or another.

107.3. The voivodship and district public prosecutors are dutybound to consider the recommendations of the Employee Council and notify the council of how they have acted upon these recommendations.

Chapter 8. Special Provisions Governing Military Prosecutors and Military Organizational Units of the Office of the Public Prosecutor

Article 108.1. Military organizational units of the Office of the Public Prosecutor are part of the Armed Forces of the Republic of Poland.

108.2. With regard to military service, the military prosecutor general is subordinated to the minister of national defense, while other military prosecutors are subordinated to their commanding officers.

Article 109.1 The military prosecutor general submits to the public prosecutor general and the minister of national defense reports on the activities of military prosecutors and keeps them regularly posted on the performance of the military organizational units of the Office of the Public Prosecutor.

109.2. The minister of national defense in cooperation with the public prosecutor general may define the tasks of military prosecutors with respect to crime prevention and the strengthening of discipline and order in the Armed Forces.

Article 110.1. The discharge of an intern or an assistant prosecutor from service in a military organizational unit of the Office of the Public Prosecutor occurs in cases in which the regulations governing military service provide for discharge from professional or periodic military service.

110.2. Military prosecutors and assistant prosecutors may not be discharged from professional military service before being discharged from their posts as prosecutors and assistant prosecutors.

Article 111.1. Prosecutors serving with military organizational units of the Office of the Public Prosecutor are appointed, transferred, and discharged from their service positions by the minister of national defense upon the recommendation of the military prosecutor general, by the procedure defined in the regulations governing the military service of the career military. Assistant prosecutors serving with military organizational units of the Office of the Public Prosecutor are appointed, transferred, and discharged by the military prosecutor general.

111.2. The guidelines for designating professional officers, warrant officers, and professional noncommissioned officers, and appointing civilian employees, to nonprosecutor positions at the military organizational units of the Office of the Public Prosecutor, and the qualifications required for these positions, are defined in separate regulations.

Article 112.1. A prosecutor or assistant prosecutor serving with a military organizational unit of the Office of the Public Prosecutor may not be subject to criminal prosecution in a court without permission by the Disciplinary Commission of the Office of the military prosecutor general, nor may he be placed in detention without the consent of the military prosecutor general. The provisions of Article 54, Paragraphs 2 and 3, and Article 55, apply correspondingly, with the proviso that the pertinent ruling of the Disciplinary Commission may be appealed to the military prosecutor general.

112.2. With regard to military prosecutors and assistant prosecutors, the provisions of Article 66 concern only such disciplinary offenses and actions detrimental to military honor and dignity as were perpetrated while or in connection with performing the duties of the prosecutor or assistant prosecutor.

112.3. For other disciplinary offenses and actions detrimental to military honor and dignity, military prosecutors and assistant prosecutors are responsible in accordance with the general guidelines contained in the regulations governing the disciplinary responsibility of

military personnel, with the proviso that the right to penalize them for disciplinary offenses belongs solely to their official superiors at the military organizational units of the Office of the Public Prosecutor and to the minister of national defense.

112.4. Interns serving with the military organizational units of the Office of the Public Prosecutor bear responsibility for disciplinary offenses solely under the regulations governing the disciplinary responsibility of military personnel.

Article 113. At military organizational units of the Office of the Public Prosecutor the following disciplinary penalties are imposed:

1) Reprimand.

2) Severe reprimand.

3) Warning of incomplete suitability for the position held.

4) Transfer to a lower-ranking position.

5) Warning of incomplete suitability for prosecutorial service (for performing the duties of an assistant prosecutor).

6) Expulsion from prosecutorial service (deprivation of the position of assistant prosecutor).

Article 114.1. In imposing the penalty of expulsion from service the Disciplinary Commission may recommend to the minister of national defense that the penalized person be discharged from professional military service or demoted from officer rank. As interpreted by the law on the military service of the career military, such discharge is tantamount to a dishonorable discharge, while the recommendation to deprive the penalized person of his officer rank is tantamount to a like recommendation by an officers' court of honor.

114.2. As envisaged in Article 71, the suspension of military prosecutors and assistant prosecutors from duty entails the consequences of suspension specified in military disciplinary regulations.

Article 115.1. In the event that a military unit violates the law or the orders or ordinances of the minister of national defense of a general nature, and in the event that circumstances affecting adversely the condition of military discipline and order are found to exist, a military prosecutor lodges, upon elucidating the matter, an objection or applies to an appropriate military agency.

115.2. The manner in which the objection or application is resolved is immediately communicated to the military prosecutor who lodged the objection or application.

115.3. A military prosecutor may investigate discrete or overall aspects of adherence to law by offices and representatives of the organizational units belonging to the armed forces or subordinate to the minister of national defense, with the exception of military courts.

115.4. While performing the investigation, the military prosecutor may, in addition to the powers vested in him under Article 43, Paragraph 1, operate at the locations of the offices or organizational units being investigated, familiarize himself, to the extent needed to elucidate the matter, with particular military problems, and request the concerned commanding officers to inspect or monitor in detail the activities of military units.

115.5. The detailed operating procedure for military prosecutors in cases referred to in Paragraphs 1-4 is determined by the public prosecutor general in cooperation with the Ministry of National Defense.

Article 116. In matters not regulated by the present law the prosecutors, assistant prosecutors, and interns attached to the military organizational units of the Office of the Public Prosecutor are governed by the regulations concerning the career military or the military in periodic service.

Chapter 9. Amendments to Binding Regulations and Interim and Final Regulations

Article 117. the provisions of Articles 57 and 60 also apply to the prosecutors who retire on a pension or an annuity before the present law takes effect.

Article 118. In matters not regulated by the present law or by special regulations, the prosecutors of the civilian organizational units of the Office of the Public Prosecutor are governed by the corresponding provisions of the Law dated 16 September 1982 on Employees of Government Offices (Dz.U., No. 31, Item No. 214, 1982; No. 35, Item No. 187, 1984; No. 19, Item No.132, 1988; No. 4, Item No. 24, and No. 34, Items No. 178 and No. 182, 1989; and No. 20, Item No. 121, and No. 51, Item No.300, 1990), while in matters not regulated by the provisions of the law of 16 September 1982 either, it is the provisions of the Labor Law Code that are binding.

Article 119. Whenever the present law refers to ministers, this is also construed to refer to the chairpersons of the commissions and committees exercising the duties of central government agencies and to the directors of central government offices.

Article 120.1. The Law dated 14 April 1967 on the Office of the Public Prosecutor of the People's Republic of Poland (Dz.U., No. 10, Item No. 30, 1980; and No. 31, Item No. 214, 1982) is hereby declared null and void.

120.2. Until the implementing regulations envisaged in the present law are issued, the existing regulations remain binding insofar as they do not conflict with the present law.

Law on Land Resources

91BA0574A Bucharest MONITORUL OFICIAL in Romanian 20 Feb 91 pp 1-15

["Text" of Law on Land Resources]

[Text] The Parliament of Romania adopts the present law.

Chapter I

General Provisions

Article 1. Land of any kind, independently of its use, of the title in which it is held, or of the public or private domain to which it belongs, composes Romania's land resources.

Article 2. Depending on its purpose, land is:

a) Land for agricultural use, namely: productive agricultural land—arable, vineyards, orchards, vine and fruit tree nurseries, hops and bean fields, pastures, hay fields, greenhouses, hothouses, and others, forest vegetation land that does not belong to forestry installations, forested pastures, land occupied by agricultural and animal raising constructions and installations, fish facilities and land improvement installations, agricultural service and production roads, storage platforms and areas that serve the needs of agricultural production, and nonproductive land that can be improved and used for agricultural production;

b) Land for forestry use, namely: forested land or land that serves forestry cultivation, production, or management, land intended for forest planting, and nonproductive land—rocks, cliffs, boulders, precipices, ravines, and torrents—if it is included in forestry management;

c) Land that is permanently underwater, namely: minor beds of waterways, lake basins at maximum retention levels, bottoms of interior seawater bodies and of territorial seas;

d) Inhabited land associated with urban and rural localities, on which are located constructions and other improvements, including agricultural and forest land;

e) Land used for special purposes, such as road, railway, naval, and air transportation with its associated constructions, hydraulic and thermal technology constructions and installations, electric power, natural gas, and telecommunication transportation facilities, mining and oil exploitations, quarries and waste dumps, defense facilities, beaches, natural reservations and monuments, archeological and historical constructions and sites, and for other similar purposes.

Article 3. In the sense of the present law, land owners are understood to be those holding property rights and other real rights to the land, or those who according to civil law, have the status of temporary owners or holders.

Article 4. Land can be the object of private property rights or other real rights, whose holders are physical or legal entities, or it can belong to the public domain or the private domain.

Public domain can be of national interest, in which case its public right ownership belongs to the state, or it can be of local interest, in which case ownership, also as public right, belongs to communes, cities, municipalities, or counties.

National public domain interests are administered by organs stipulated by law, and local public interest domains are administered by mayors or by prefectures depending on circumstances.

Public domain land is the land designated for public use.

Article 5. The public domain consists of land occupied by public interest constructions, markets, communication lines, streets and public parks, ports and airports, land for forestry use, creek and river beds, basins of public interest lakes, the bottom of interior maritime waters and of the territorial sea, the shore of the Black Sea including beaches, natural reservations and national parks, monuments, archeological and historical constructions and sites, natural monuments, land used for defense or for other purposes which according to law are in the public domain, or which by their nature are of public use or interest.

Land that is part of the public domain is withdrawn from civilian ownership unless otherwise stipulated by law. Property right to this land is inalienable.

Article 6. The private domain of the state, communes, cities, municipalities, and counties consists of land—other than that stipulated in article 5—that is or that becomes their property through ways and means stipulated by law. It is subject to common law provisions, unless otherwise stipulated by law.

Article 7. Land resources and corresponding property rights and other real rights, must be recorded in the public land record and housing documents stipulated by law.

Chapter II

Establishment of the Private Property Right to Land

Article 8. Under the present law, private property right to land owned by agricultural production cooperatives is established by gaining or regaining that property right.

Beneficiaries of the law are cooperative members who have transferred land to the cooperative, or whose land was acquired by the cooperative in any manner and under civil law, their heirs, cooperative members who did not contribute land to the cooperative, and other specifically designated persons.

Property right is established on request by obtaining a property title to a minimum area of 0.5 hectare of

equivalent arable land for each person entitled to land according to the present law, and to a maximum area of 10 hectares for a family.

Family is understood to mean spouses and unmarried children if they farm together with their parents.

Article 9. Persons whose property right is gained or regained according to the present law, cannot be allocated a property of more than 10 hectares of equivalent arable land per family, even if the property right is gained or regained in several localities.

The persons stipulated in paragraph 1 will append a signed declaration to their request, reporting the land area they own or which they are entitled to receive under the conditions of the present law.

Article 10. The land area transferred to the cooperative is determined from the cooperative's records, enrolment requests, agricultural records on the date of enrolment into the cooperative, property deeds and land card, or in their absence, from any other evidence, including declarations from witnesses.

The provisions of the preceding paragraph equally apply to the land areas appropriated by cooperatives either on the basis of special laws, or without any title, or in any other manner.

Property right is established on request, based on the land held by the cooperative on 1 January 1990 and recorded in the general land cadastre or in agricultural records, updated by the transfers performed by the cooperative until the effective date of the law.

Requests to establish property rights are entered and recorded at a town hall within 30 days from the effective date of the present law.

The establishment of property rights will be concluded within at most 90 days from the publishing date of the present law.

Article 11. To establish property rights by gaining or regaining them, to allocate land to those entitled to it, and to issue property titles, a commission led by a mayor is formed in each commune, city, or municipality by decision of the prefecture.

Commune, city, or municipality commissions will operate under the guidance of a county commission named by decision of the prefecture and led by the prefect.

The procedure for forming the commissions and the model and manner for issuing the new property rights, will be established by government decision within 15 days after the publication of the present law. The commissions will be composed of citizens from all entitled categories, specialists, and public officials, as designated by the community. In communes composed of several villages, the citizens will be designated in proportion to the number of inhabitants in each village.

County commissions are qualified to resolve disputes and to validate or invalidate the measures taken by their subordinated commissions.

Those dissatisfied with county commission decisions can lodge complaints with the court in whose jurisdiction the land is located, within 30 days after obtaining the resolution of a county commission.

A complaint suspends execution.

The court will set a date for the plaintiff and will ask the county commission to designate one of its members to appear on the court date to provide explanations.

Judicial control is limited exclusively to the correct application of the imperative decisions of the present law regarding the right to obtain property rights, the land area that is due, and if necessary, the exact reduction in this area, according to law.

Two judges of the court will judge the complaint.

The decision of the court is final. The county commission which has issued the title will modify, replace, or cancel it based on the decision of the court.

Article 12. Qualification as heir is established by an inheritance certificate, or by a final court decision, or failing these, by any other evidence that shows acceptance of the inheritance.

Heirs who cannot prove their qualification insofar as the land has not been on the civilian market, are considered to have regained rights to the proportion of land to which they are entitled from the land belonging to their progenitors. They are considered to have accepted the inheritance on the basis of their request to the commission.

The property right is issued for the land area determined in the name of all the heirs, following which they proceed according to common law.

Article 13. Agricultural production cooperative land outside the boundaries of a locality becomes the property of the cooperative members, or depending on circumstances, of their heirs, as a function of the areas contributed to or acquired by the cooperative in any manner.

As a rule, land is effectively allocated according to old property lines in mountain regions, and in the plain, according to boundaries established by the commission and not necessarily according to old property lines, within the current areas of cooperatives.

When differences exist in total area as well as in utilization categories between the land area of agricultural production cooperatives, calculated by adding the land areas contributed by cooperative members or acquired by the cooperative in any manner, and the current land area, the property of cooperative members or their heirs is established by reducing a proportional ratio calculated by subtracting from the total initial area, the area legally used for other purposes relative to existing agricultural utilization categories. Owners of properties smaller than 1 hectare will not be affected.

At the option of its owners, land occupied by orchards, vineyards, greenhouses, fish ponds, fishery facilities, nurseries, animal raising and administrative constructions, as well as fodder management constructions needed for existing animal-raising facilities in cooperatives, can represent contributions to the formation of private affiliations, as legal entities or otherwise.

Article 14. Cooperative members who have either left the cooperative, have not worked in the cooperative, or do not live in the respective locality, as well as their heirs, can receive land outside the boundaries of a locality that was contributed to or acquired by the cooperative in any manner.

The provisions of the preceding paragraph also apply to persons and their heirs whose land entered with or without title into the cooperative's holdings, even if these persons did not become cooperative members.

* * *

The provisions of paragraph 2 also apply to holders of the title Knight of the Order Mihai Viteazul, and Mihai Viteazul with Swords, and to their heirs, who have requested and received arable land on the date of property allotment, and who do not own any other land except the one that was taken from them.

The provisions of article 13, paragraphs 2 and 3, also apply.

On request, those who have totally or partially lost the capability to work as a result of participating in the struggle for victory in the Revolution of December 1989, and the heirs of those who have died in that Revolution, will be awarded properties of 10,000 sq meters of equivalent arable land. These persons are exempt from taxes or fees on that land.

Article 15. If the land area of agricultural production cooperatives also includes the agricultural land of private owners, and if the latter have not received other land as compensation, the property will be restituted upon request to them or to their heirs, in areas of equivalent proportions, from fields established by the commission.

The provisions of article 13, paragraphs 2 and 3, also apply.

Article 16. In localities with Romanian citizens of German minority, or in those with persons who have been deported or relocated, and who were dispossessed of land through regulations issued after 1944, land will be allocated as a priority on request from these persons or their heirs, from land at the disposal of the commission, or by following the procedures of article 36.

The allocation will take into consideration the land area owned by these persons, but will not exceed 10 ha of equivalent arable land per family.

Article 17. Land outside the boundaries of a locality that has been contributed to or acquired by the cooperative in any manner from cooperative members or any other persons who have died without heirs, as well as land without requests for restitution, remains at the disposal of the commission.

All cooperative land that is not allocated according to articles 13-16, as well as state land outside the boundaries of a locality, and that is being used by a cooperative, also remains at the disposal of the commission, to be allocated to those entitled to it according to the provisions of the present law.

Unallocated land that remains at the disposal of the commission is transferred to the state private domain, to be placed at the disposal of those who want to establish or develop agricultural uses, through rental, lease, or sale, according to law.

During 1991, the persons indicated in paragraph 3 can be allocated without payment, the land transferred to the state private domain, according to the provisions of the law.

To administer this land, the Agency for Rural Development and Improvement will be established by law.

Until the land comes under the administration of the Agency, it will be administered by town halls.

Article 18. Active cooperative members who have not contributed land to the cooperative, or who have contributed less than 5000 sq meters, as well as those who have worked for a cooperative or cooperative association as employees during the past three years without being cooperative members, can be allocated as property the land stipulated in article 17, if they are established or expect to be established in the locality and have no land in other localities. The area allocated to them as property will be determined by considering the area of the land, the number of requestors, and the areas allocated to those who have contributed land to the cooperative.

The provisions of paragraph 1 also apply to those who have been deported and who do not benefit from the provisions of articles 13-15.

On request, up to 5000 sq meters of equivalent arable land per family can be allocated for agricultural use to specialized personnel in commune public services, during the time they work in the locality, if they or members of the family to which they belong have no property in that locality. Property rights to that land belongs to the commune, city, or municipality, depending on circumstances.

Upon leaving the locality, the persons indicated in paragraph 3 are entitled to reimbursement for their investments, if they have first obtained consent from the owner and if the investments are useful for the allocated area.

Article 19. When agricultural cooperatives no longer have land available for minimum area allocation as provided in article 8, or for those stipulated in articles 16

and 18 paragraphs 1 and 2, the commission will determine a quota reduction proportional to the area being allocated, so as to allocate land property to those categories as well.

Article 20. In localities with surplus agricultural land and with shortages of agricultural manpower, up to 10 ha of equivalent arable land can be allocated from the land stipulated in article 17, to all families that request it in writing and undertake the obligation to work that area.

Upon written request, families without land, or with little land in other localities, can receive as property as much as 10 ha of equivalent arable land, with the obligation to establish residence in the commune, city, or municipality, and to cultivate the land received, relinquishing property outside the boundaries of their own locality.

Article 21. Upon request from parish commissions or from other representative organs of local rural religious communities, the commission will allocate as agricultural land property, an area of up to 5 ha of equivalent arable land to each parish or flock belonging to religions recognized by law, or up to 10 ha of equivalent arable land for monasteries, to the extent to which these groups owned agricultural land that was acquired by agricultural production cooperatives, and currently do not have similar land or have small land areas. In areas that were not converted to cooperatives, on proposal from town halls and with the decision of the prefecture, property rights will be restored from land under state ownership and administered by town halls.

The provisions of article 9, paragraph 2, also apply.

Article 22. Independently of their occupation or residence, cooperative members or their heirs have and will retain private ownership of the land covered by their houses and household buildings, as well as by the yard and garden surrounding them, determined according to article 8 of the Decree-Law No. 42/1990 regarding Measures to Encourage the Peasantry.

The provisions of the preceding paragraph also apply to those who were not cooperative members in areas converted to cooperatives.

Article 23. Land inside the boundaries of a locality, that was allocated by cooperatives to cooperative members or other persons entitled according to law, for the construction of housing and household buildings, remains and is recorded as the property of the current holders, even if it was allocated from land obtained in any manner from its former owners.

The former owners will be compensated with an equivalent area of land inside the boundaries of a locality, or failing that, with land outside the boundaries of a locality in the immediate vicinity.

Article 24. When an agricultural production cooperative has allocated land for the use of cooperative members in the gardens of former owners within the boundaries of a locality, this land rightfully belongs to its initial owners. Those who received land under the conditions of the preceding paragraph, and who invested in it, are entitled to remuneration equal to the value of the investment if the latter cannot be removed.

Article 25. Land located within the boundaries of a locality, belonging to cooperative members or other persons who have died without heirs, is transferred to the ownership of the commune, city, or municipality, and under the administration of the town hall, to be sold, leased, or used by those who request to build housing and have no land, or to erect sociocultural or production facilities according to law, or for the compensations stipulated in article 23.

Until the operations stipulated in paragraph 1 are implemented, the land will be recorded and used according to its current condition.

Article 26. Property titles to their land areas will be issued to those qualified to receive land according to the present law, keeping in mind in each case their option to use the land individually or in various forms of private affiliation, in whole or in part, so that possession of the land is accepted on that basis.

Liquidation commissions constituted within 15 days from the effective date of the present law, on proposal from town halls and decision of prefectures, will proceed to dissolve agricultural production cooperatives, and within 9 months from dissolution will sell off their assets and pay their debts under conditions stipulated by law.

Article 27. The liquidation commissions stipulated in article 26 have the obligation to observe and confirm any violation of the law, to take steps to recover damages according to law, and if necessary, to notify the appropriate judicial forums.

The amounts recovered under the conditions of the preceding paragraph constitute liquidated assets and are used as stipulated in article 26.

On expiration of the period stipulated in article 26, the commissions will present the liquidation accounts and final detailed reports to the specialized organ of prefectures or of the Bucharest Municipality City Hall, which is responsible for financial control according to law.

The findings of debts to the state and to other legal entities, remaining after completion of the liquidation operations undertaken by the commission, will be recorded and collected by the Minister of Finances, after which the government will present them to Parliament with proposals for resolution.

Article 28. Agricultural and animal raising constructions, small industry shops, machinery, tools, and other fixed assets that belonged to dissolved production cooperatives, the land on which they are located and the land that is necessary for their normal utilization, as well as vineyards, orchards, and animals, become the property of members of private associations that are legal entities, if the latter are established.

The rights of former cooperative members to the goods stipulated in paragraph 1 will be established as share values proportional to the land area contributed or acquired by the cooperative in any manner and to the amount of work performed. Association members will consider these rights as contributions in kind to the new association.

Former cooperative members who do not become members of these associations will be entitled to credits proportional to the share value that they are owed from the cooperative's holdings, if these rights are not covered in another manner. The credits will be paid by the association in kind or in money, according to the decision of the liquidation commission.

If no associations have been formed, the goods and animals stipulated in paragraph 1 will be sold at public auction to individuals or legal entities, and the money collected will be used to pay all the types of debts of the former cooperative. Excepted are bovines and ovines, as well as vineyards and orchards, which will be allocated to former cooperative members.

The monetary rights due to each former cooperative member will be established by the liquidation commission formed according to article 26, paragraph 2, within nine months from the dissolution of the cooperative.

Former cooperative members will receive their share from the auction sale of common goods, in proportion to the equivalent arable land area contributed to the cooperative and to the value of the work performed.

Goods stipulated in paragraph 1, that are not sold within one year from the dissolution of the cooperative, become the private property of the commune, city, or municipality in which it is located, without any remuneration and under the administration of the town hall.

It is forbidden to dismantle agricultural or animal raising constructions, maintenance shops, household installations and additions, and small industry shops that are the subject of paragraph 1. Exceptionally, they can be removed with town hall authorization if they are in poor condition or cannot be used for any reason, and the materials can be sold by the town hall, with the money being added to the liquidation proceeds.

Constructions used for social or cultural purposes are transferred without payment, as public right, to the ownership of a commune, city, or municipality and under the administration of a town hall.

Article 29. An intercooperative, state, or any type of cooperative association can be reorganized as a commercial company with shares, within 90 days from the publication of the law.

Land and other goods contributed by the cooperative to the association, as well as goods acquired by the latter, become the property of the company, and cooperative members and other persons entitled to regain their property from the land belonging to the company, as well as its employees, can become shareholders according to law.

When some cooperative members or other entitled persons stipulated in paragraph 2 do not choose to become shareholders of the commercial company, they will be given ownership right to land that was not contributed by the cooperative to the association, according to the provisions of articles 13 and 14 of the present law.

In localities where these possibilities do not exist, it will be possible to dissolve inefficient farms of the association. The decision in this regard is adopted by the county commission on proposal from commune, city, or municipality commissions, depending on circumstances.

The provisions of article 33 also apply.

Article 30. State property land being used by cooperatives is at the disposal of the commissions stipulated in article 11, to be allocated as property to those who are entitled according to law.

Unallocated land remaining at the disposal of the commission, will be transferred to the town hall for rental or leasing to those who want to utilize it.

Article 31. Land allocated under article 18, paragraph 1, and articles 20 and 39, cannot be transferred through living deed for 10 years beginning with the year following the one in which the property was recorded, under sanction of complete annulment of the transfer proceedings.

Determination of the annulment can be requested in court by the town hall, prefecture, district attorney, as well as by any interested party.

Article 32. Land from former village commons—pastures and arable land—that was used by an agricultural production cooperative, is transferred to the private ownership of a commune, city, or municipality and under the administration of the town hall, to be used as communal pasture and for the production of fodder and seed for fodder crops.

Article 33. Individuals receiving under the conditions of the present law, land that is planted with vineyards or orchards, will reimburse the credit difference to be paid as a function of the area received. The reimbursement can be in money or agricultural products, within the reimbursement deadline obligations of the agricultural production cooperative.

Land improvements on the land received, including associated protection zones, become the property of units specialized in the utilization of such land projects, under the conditions of the law.

Chapter III

Provisions Regarding State-Owned Land and Special Provisions.

Article 34. State-owned land is the area that became state property according to the legal provisions existing until 1

January 1990, and entered as such in the general land cadastre and in forest resources.

State-owned land administered by institutes and scientific research stations, or intended for research and production of superior biological seeds and seed materials, and for pure breed animals, belongs in the public domain and remains under their administration.

The provisions of the preceding paragraph also apply to state- owned land used on the date of the present law by agricultural or forestry education units, and which falls under their administration.

Article 35. State-owned land located within the boundaries of a locality and which falls under the administration of a town hall on the date of the present law, becomes the property of a commune, city, or municipality, consistent with the legal land management conditions stipulated in article 25.

State-owned land located within the boundaries of a locality and allocated according to law in perpetuity or for the duration of the construction, for personal property housing construction, or upon state purchase of such housing, becomes on request, the property of their present owners, fully or in proportion to the share they have in the construction, depending on circumstances.

Land allocated to the acquirers of constructions to be used for the duration of the constructions, resulting from acquisition of the land associated with the constructions, under the provisions of article 30 of Law No. 58/1974 regarding the Systematization of the Territory and of Urban and Rural Localities, becomes the property of those who presently have the right to use the land, owners of the houses.

The provisions of article 22 remain applicable.

Land without constructions that is not affected by systematization details, within the boundaries of a locality, under the administration of a town hall, considered state property through the provisions of Decree No. 712/1966, is returned to its former owners or their heirs, on request.

The land stipulated in paragraphs 2-5 is allocated for ownership by decision of the prefecture, on proposal of the town hall, based on verification of the legal condition of the land.

Article 36. Persons whose agricultural land was transferred to state ownership as a result of special laws other than expropriation, and which is under the administration of state agricultural units, become on request shareholders of the commercial companies established by Law No. 15/1990 from state agricultural units. The heirs of these persons benefit from the same provisions.

Requests are made within 30 days from the effective date of the present law, at the town hall in whose area the land is located.

The number of shares received will be proportional to the equivalent arable land area transferred to state ownership, but will not exceed 10 ha of equivalent arable land per family.

The provisions of this article do not apply to persons whose land was confiscated as a result of penal convictions, except for those stipulated in the Decree-Law No. 118 of 30 March 1990, regarding the granting of rights to persons persecuted for political reasons by the dictature that took power beginning on 6 March 1945.

Article 37. Agricultural land without constructions, installations, or public interest improvements, that came under state ownership and under the administration of a town hall on the date of the present law, will be returned to its former owners or their heirs, but will not exceed 10 ha of equivalent arable land per family.

The land is restituted on request, under the conditions of article 10 of the present law, by decision of the prefecture, on proposal from the town hall.

The provisions of article 36, last paragraph, also apply.

Article 38. In localities with a land shortage, where the land of former owners is now state property, when the former owners do not exercise the options of article 36 and the minimum land area stipulated by the present law cannot be allocated to them or their heirs, the county commission will on request, allocate 5000 sq meters of equivalent arable land per family from state property.

The provisions of article 36 apply to the difference of land to which former owners or their heirs are entitled according to the present law.

Land areas on which investments other than land improvements have been made, cannot be allocated.

Vineyards or orchards can be used in such cases only when land of any other category is not available for ownership allocation.

Article 39. In mountain zones with unfavorable natural factors such as climate, altitude, slope, and isolation, an area of 10 ha of equivalent arable land can be allocated to young peasant families which come from a mountain agriculture environment, which have the necessary skills, and which undertake an obligation in writing to create households, to raise animals, and to use the land rationally for this purpose.

The land stipulated in the previous paragraph is allocated from land resources at the disposal of town halls.

Ownership of the land is assigned by decision of prefectures upon proposal from town halls.

Article 40. Land derived from former commons transferred to state units, and which is currently used for pasture, fodder crops, and arable land, will be restored to the ownership of a commune, city, or municipality and under the administration of a town hall, to be used as common pasture and to produce fodder or fodder crop seed. Excepted are areas covered by vineyards, orchards, fodder seed plots, fisheries, lakes, or those intended for

the production of vegetables, fruits, raw materials for canned goods plants, rice plots, and experimental fields for agricultural research, which will be reimbursed in equivalent value by the Ministry of Agriculture and Food.

Article 41. Wooded land, forests, riverbank copses, shrubberies, and wooded pastures, which have belonged to private individuals, and which as a result of special laws were transferred to state ownership, are returned upon demand to their former owners or their heirs, as an area equal to the one transferred to state property but not to exceed 1 ha. The provisions of articles 42 and 47 also apply.

If the land to be allocated under the provisions of the preceding paragraph contains constructions or forest improvement installations that are completed or under construction or design, other land will be allocated while respecting the same conditions.

The land allocated under the conditions of paragraph 1, together with the equivalent arable land area restored according to the present law, cannot exceed 10 ha per family.

The land stipulated in paragraph 1 can be farmed and used as forest land according to the law. These areas will be allocated from isolated lots or at the edge of the forest.

Article 42. Romanian citizens living abroad and former Romanian citizens who regain Romanian citizenship, can benefit from the provisions of the present law upon request, if they establish residence in Romania.

Individuals stipulated in paragraph 1 who did not formulate requests for gain or regain of property rights under the provisions of article 10, can address themselves to the Agency for Rural Development and Improvement to rent, lease, or buy land.

Article 43. Persons who have obtained property rights to agricultural land have the obligation to fully respect the conditions stipulated in articles 18, 20, and 39 of the present law, regarding the establishment of residence and the formation of new households.

Failure to respect these conditions results in the loss of property rights to the land and to any construction on that land. No reimbursement will be made for the land, and the owner will receive a reimbursement equal to the real value of the constructions.

The organ authorized to determine these situations is the Agency for Rural Development and Improvement, under whose administration is transferred the respective land and constructions.

Article 44. The territorial definition of the new properties created by the present law is based on the present territorial organization, and is conducted on the basis of subdivision projects undertaken by specialized agencies.

Chapter IV

Legal Distribution of the Land

Article 45. Private property land is and remains on the civilian market independently of its owners. It can be bought and sold through any of the modes established by civil law, respecting the provisions of the present law.

Article 46. Land within and outside the boundaries of a locality can be sold independently of its area, through a living deed closed in an legitimate manner.

In all purchases through living deed, the buyer's property cannot exceed 100 ha of equivalent arable agricultural land per family, under penalty of total cancellation of the sales document.

Article 47. Individuals who are not Romanian citizens and do not reside in Romania, as well as legal entities which do not have Romanian nationality and are not headquartered in Romania, cannot buy ownership in any sort of land through a living deed.

Persons stipulated in the preceding paragraph who obtain land through inheritance, must sell it within one year from acquisition date, under penalty of free transfer of the land to state ownership and to the administration of the Agency for Rural Development and Improvement.

Individuals stipulated in paragraph 1 who acquired ownership of land before the effective date of the present law, must sell it within one year from that date, under penalty of free transfer of the land to state ownership and to the administration of the Agency for Rural Development and Improvement.

Article 48. Agricultural land outside the boundaries of a locality can be sold by exercising a preemption right.

Preemption rights for selling any agricultural land outside the boundaries of a locality belongs to co-owners if they exist, and then to neighboring land owners, and is exercised through the Agency for Rural Development and Improvement.

The owner of the land to be sold must advise the Agency for Development and Rural Improvement, which within 15 days from date of notification, will communicate in writing the owner's intention to the persons stipulated in paragraph 2.

Those entitled to preemption rights must declare their position on its exercise within 30 days from receipt of the communication.

After this time has elapsed, the preemption right for co-owners or neighboring owners is considered void.

The preemption right regarding the sale of land belongs to the state through the Agency for Development and Rural Improvement, which must declare its position within the deadline stipulated in paragraph 4.

If the agency does not make its position known, the land can be freely sold.

Article 49. Sale documents that violate the preemption right stipulated in article 48 are cancelable.

Article 50. Agricultural land outside the boundaries of a locality cannot be the object of forced or voluntary execution except in cases stipulated by law.

Article 51. Individuals can exchange land by mutual agreement, through legitimate documents, applying the provisions of article 46.

Land exchange between legal entities which administer land in which the state owns a majority share, or between these entities and individuals, can take place only with notification of the Ministry of Agriculture and Food or the Ministry of the Environment, depending on circumstances.

In an exchange, the land acquires the legal condition of the land it replaces, while respecting real rights.

Article 52. New ownership according to article 51 paragraph 2 is awarded by a delegate of the county Office for Cadastre and Territorial Organization, in the presence of the interested parties, entering the changes in the land cadastre and the agricultural register.

Chapter V

Land Usage for Agricultural and Forestry Production

Article 53. All owners of agricultural land must assure its cultivation and its soil protection.

Article 54. Land owners who do not fulfill the obligations stipulated in article 53, will be summoned in writing to comply, by the commune, city, or municipality.

Those who do not obey the summons and who through their own fault, do not fulfill their obligations within the time established by the town hall, will be given an annual fine of 5,000 to 10,0000 lei per ha, depending on the land's category of use.

The fine is ordered by reasoned decision of the town hall, and the money becomes an income to the local budget.

Article 55. All owners of land allocated for use under the conditions of the present law, who do not fulfill the obligations stipulated by article 53, will be summoned under the conditions of article 54, paragraph 1.

Those who do not obey the summons and do not fulfill their obligations, will be subject to the procedures of article 54, paragraph 2.

They lose right to the use of the land after a period of 2 years.

Article 56. The use category of the arable land of legal entities can be changed into other categories of agricultural utilization with the approval of specialized county agricultural organs, only under the following conditions:

a) Arable land in hill regions, constituting plots in areas of vineyards and orchards, in designated vineyards or orchards, and established by specialized organs in the Ministry of Agriculture and Food, can be transformed into vineyard and orchard plantations;

b) Arable land in flat regions, needed to complement vineyards intended for table grapes and raisins, as well as peach and apricot orchards, established by specialized organs in the Ministry of Agriculture and Food, can be transformed into vineyard and orchard plantations;

c) Arable land with sandy soil can be improved and transformed into vineyards and orchards;

d) Land registered as arable, located in hill and mountain regions on non-mechanizable slopes prone to surface and depth erosion, or to active or semi-stabilized slides, and which can no longer be improved and maintained as arable, can be improved and transformed for pasture and fodder crops;

e) Arable land located in river beds and the Danube bed, which cannot be profitably be used for other agricultural purposes, can be improved into fish basins.

Article 57. Changes in the use category of arable land, other than those stipulated in article 56, pastures, fodder fields, vineyards and orchards owned by legal entities and in which the state holds a majority share, will be approved by the Ministry of Agriculture and Food.

Changes in the category of forest utilization for forests, willow woods, and tree farms, owned by legal entities, is approved by the Ministry of the Environment.

Changes in the category of agricultural land that forms protection zones for monuments is effected with the agreement of the National Commission for Monuments and for Historical Collections and Sites.

Article 58. The soil is protected and improved through projects to prevent and control soil destruction and pollution resulting from natural phenomena or from economic and social activities.

Soil protection and improvement work is based on studies and projects undertaken at the request of specialized research and design organs, together with territorial improvement and organization agencies, and is executed by land owners, or through them, by units specializing in such work.

The state supports the performance of soil protection and improvement projects, partially or totally underwriting expenses to the extent of approved budget allocations, based on plans formulated by research and design units, adopted by specialized county agricultural organs, and approved by the Ministry of Agriculture and Food.

Article 59. Technical-economic and ecologic documentation will be jointly formulated by all interested parties for the coordinated performance of common interest projects aimed at the needs of agriculture, forestry, water management, means of communication, human settlements, or other economic and social objectives. The

documentation will establish the contribution of the interested parties and the order of execution of the projects.

Article 60. Projects to control water drainage on slopes and torrents, aimed at protecting and maintaining irrigation installations, dikes, drainages, accumulation ponds, or other hydrotechnical installations, means of communication, as well as economic and social objectives, will be performed concurrently with basic work.

Article 61. Land which has totally or partially lost its production capability for agricultural or forestry crops, will be combined into land improvement zones.

Land parcels that enter into land improvement zones are established by the Ministry of Agriculture and Food and the Ministry of the Environment from proposals based on situations reported by communes, cities, or municipalities.

Land improvement zones are defined by a specialized commission whose composition and operating regulations are established by the Ministry of Agriculture and Food and the Ministry of the Environment.

The necessary documentation is approved by county agricultural and forestry and environmental protection organs, and is forwarded to the Ministry of Agriculture and Food, which together with interested ministries and departments will establish programs for design, financing, and execution.

Article 62. Owners must make available the land in land improvement zones for implementation of the measures and projects stipulated in the improvement project, retaining their ownership rights.

Any given land in the category mentioned above can be included by the town hall with the owner's agreement. If the owner does not agree, the town hall advances a detailed proposal to the prefecture for its decision.

Article 63. In the interest of torrent correction and water management projects, the state can exchange equivalent land with owners in the zone, when their land is subject to permanent improvement work. The exchange takes place with the owners' agreement, through legitimate documents recorded in the land cadastre.

Article 64. Damaged and polluted land included in the land improvement zone is exempt from fees and taxes from the state, the county, or the commune for the duration of the improvement projects.

Article 65. Improvement and exploitation projects for damaged land in land improvement zones are performed by units specialized in the specific work.

Work performed to consolidate the land, such as terracing, grading, leveling, soil anchoring, grass planting, foresting, torrent and fence correction, roads, bridges, and permanent crossings, is performed at state expense, in conformance with the improvement project.

Article 66. The state will provide free materials—grass seed, seedlings, soil additives—and technical assistance to owners of damaged land, even if it is not included in land improvement zones, who individually or together and at their own initiative, want to plant grass or forests, to correct soil conditions, or perform any other improvements on their land.

Land owners who receive materials for planting grass, trees, or for soil correction, and who do not use it for the purpose for which their request it, must pay their full value.

Article 67. The money needed to research, design, and plan projects to improve, correct, and exploit damaged and polluted land included in land improvement zones, is assured by the Ministry of Agriculture and Food, the Ministry of the Environment, or by other interested ministries, as a function of project specifics, from the improvement fund and from budget allocations.

The necessary funds can be increased through the participation of communes, cities, municipalities, or counties, through the manpower or monetary contribution of all those interested in these projects, of land owners, of residents who can directly or indirectly benefit from these improvements, and from companies or agencies whose art works, roads, bridges, railways, constructions, and so on, benefit from the land improvement and correction projects.

If it is demonstrated that an area has been removed from agricultural or forestry production as a result of soil damage or pollution caused by culpable actions of individuals or legal entities, the owners, the town hall, or the agricultural or forestry organ can request that the expenses required for soil repair and improvement be covered by the guilty party.

Article 68. The Ministry of Agriculture and Food, the Ministry of the Environment, together with the Academy of Agricultural and Forestry Sciences will take measures to develop a national system to monitor, evaluate, forecast, and warn about the condition of agricultural and forestry soils, using a system based on national and county data banks, and will propose the measures needed to protect and improve the land, aimed at maintaining and increasing production capabilities.

Chapter VI

Temporary or Permanent Land Utilization for Purposes Other Than Agricultural and Forestry Production

Article 69. Agricultural and forestry production land is to be temporarily or permanently used for purposes other than agricultural and forestry production, only under conditions stipulated by law.

Article 70. New constructions of any kind are located within the boundaries of a locality.

Exceptionally, some constructions whose nature could cause environmental pollution, can be located outside the boundaries of a locality. In this case, the location will be determined on the basis of ecological studies approved by organs specialized in environmental protection.

Similarly excepted are constructions which by their nature cannot be located within the boundaries of a locality, as well as animal shelters.

Article 71. The location of constructions of any kind on agricultural land of class I and class II quality, on land with improvement facilities, on land planted with vineyards and orchards, in national parks, in reservations, monuments, archaeologic and historic sites, is forbidden.

Excepted from the provisions of the previous paragraph are constructions which serve agricultural activities, military purposes, railways, particularly important highways, high voltage lines, well drilling and equipment, oil and gas exploitation, main conduits for gas and oil transportation, water management installations, and water sources.

Land is permanently removed from agricultural or forestry use with payment of its value from those who approve it, to its owners and to the taxes stipulated in appendixes 1 and 2. These taxes form the "Land Improvement Fund" at the disposal of the Ministry of Agriculture and Food and the Ministry of the Environment.

Land permanently removed from agricultural and forestry use for constructions that serve agricultural and forestry activities, land improvement projects, waterway control, drinking water sources, and meteorological facilities, is not subject to the taxes stipulated in the preceding paragraph.

Article 72. To temporarily remove land from agricultural and forestry production, the receiver of the approval must deposit a monetary guarantee equal to the fee scheduled for permanent removal of land from agricultural use, into the "Land Improvement Fund."

After fulfilling the obligations regarding the return of land to agricultural use, the receiver of the approval will recover the deposited guarantee upon confirmation from county agricultural and forestry organs and from the land owner.

If the receiver of the approval does not execute work of suitable quality and within the time schedule given in the approval documents, the specialized agricultural or forestry organ, based on an inspection of the project, orders to have the work redone and paid from the deposited guarantee.

If the receiver of the approval does not redo the work within a new time schedule and at a quality established by the agricultural or forestry organ, the full guarantee remains in the "Land Improvement Fund."

Article 73. Permanent or temporary use of agricultural land for purposes other than agricultural production is approved as follows:

a) By county agricultural organs through the Office for Cadastre and Territorial Organization of the county or of the Bucharest Municipality, for agricultural land of up to 1 ha. The Ministry of Agriculture and Food approves any expansion of this land area;

b) By the Ministry of Agriculture and Food for agricultural land of up to 100 ha;

c) By the government for agricultural land whose area exceeds 100 ha.

Article 74. Permanent or temporary use of forestry land for purposes other than forestry, is approved by the county forestry organ for up to 1 hs, by the Ministry of the Environment for up to 100 ha, and by the government for areas greater than that.

Article 75. The approval stipulated in articles 73 and 74 requires the approval of the land owners. Similarly, the approvals stipulated in article 73, letters b) and c), and article 74, require approval from county or the Bucharest Municipality agricultural or forestry organs, as the case may be.

Article 76. Government approval must be based on an approval from the Ministry of Agriculture and Food for agricultural land, and from the Ministry of the Environment for forestry and water resources land, and if necessary, from the Ministry of Culture for the protection of monuments.

Article 77. The boundaries of localities are those that existed on 1 January 1990, as shown in the land cadastre; they can be modified only under legal conditions.

Article 78. Land in abandoned river beds that becomes available after the completion of water control projects, will be adapted for agricultural, fish, or forestry production, depending on circumstances, together with the basic projects performed by its owners.

Article 79. Before the construction of facilities, owners of investment or production facilities located on agricultural and forestry land, must take steps to remove the fertile soil cover from the approved locations, and deposit and level it on unproductive or poorly productive land indicated by agricultural or forestry organs, so as to improvement the latter.

Soil can be deposited only with the approval of the land owners. The latter will not have to pay anything for the resulting increased value, nor request damages for the time the land is not usable.

Article 80. Owners of investment or production facilities whose land is no longer used for production, such as the land remaining after the excavation of raw materials—coal, kaolin, clay, gravel, abandoned wells, and similar land—must take the measures necessary for improvement and leveling, placing it in agricultural use, and if that is not possible, in fish or forestry use.

Those indicated in paragraph 1 will not receive approval for removing any other land from agricultural or forestry use, if they have not complied with the provisions of this article.

The work is performed by specialized units of the Ministry of Agriculture and Food and the Ministry of the Environment, from funds provided by the beneficiaries, under legal conditions.

Article 81. Telecommunication and electric power distribution lines, water, sewage, oil, gas, and similar conduits, will be grouped together and located along and in the immediate vicinity of communication paths—highways, railways—of dikes, irrigation and drainage channels, and of other defined paths, so as not to interfere with the execution of agricultural work.

The use of land in such cases is approved by the county or Bucharest Municipality Office for Cadastre and Territorial Organization, independently of the area involved, with approval from the owners.

Approval under conditions other than those stipulated in paragraph 1 is given by the organs stipulated in articles 73 and 74.

Article 82. Land needed to perform urgent work that can be executed within a 30-day period, to repair damages and to perform maintenance on the facilities stipulated in article 81, will be used with the approval of the land owners, or if they deny it, with the approval of the county prefecture or the City Hall of the Bucharest Municipality.

In all cases, land owners are entitled to remuneration for damages.

Chapter VII

Organization and Improvement of Agricultural Land

Article 83. The organization and improvement of agricultural land is intended to create conditions for better land utilization for agricultural purposes, and is based on studies and projects at the request of owners, solving the following problems:

a) Correlate agricultural development in the region, with other economic and social activities, establishing measures that will lead to higher agricultural production and overall utilization of the region;

b) Cluster land together by owners and uses consistent with ownership structures and forms of land cultivation, as a result of associations, establish the boundaries of each property by clustering scattered parcels and correcting irrationally located boundaries;

c) Formulate studies and projects to organize and improve agricultural facilities;

d) Establish an agricultural road network to complement the general purpose road network, integrated in the overall organization and improvement of the territory, aimed at transporting production and providing access to the agricultural machinery necessary for production.

Article 84. Studies and projects for agricultural land organization and improvement are formulated by central or county specialized study, planning, and research units, and are discussed with the land owners in the region of interest. If they are adopted by a majority vote from those who own two-thirds of the area, and are approved by county agricultural organs, the implementation of the stipulated measures and projects becomes compulsory for all land owners.

Chapter VIII

Penalties

Article 85. Violations of the provisions of the present law result in civil, contravention, or penal responsibility, as the case may be.

Article 86. Damage to agricultural and forestry land, its surroundings, destruction and damage of agricultural crops, of land improvement installations, of topographic or geodesic fiducials and signs, of historical monuments and archeological sites, or interference with measures to conserve these items, as well as the removal of such facilities, are destructive infractions and are punished according to the provisions of the Penal Code.

Article 87. Full or partial occupation of any sort of land, installation or relocation of boundary markers and fiducials without approval under legal conditions, are disturbances of ownership infractions and are punished according to the provisions of the Penal Code.

Article 88. The following actions constitute contraventions of regulations of evidence, protection, utilization, and improvement of agricultural or forestry land, unless they are performed under conditions that classify them as infractions under penal law:

a) Changing land and changing the use of land from a superior to an inferior category, as well as permanent or temporary use of agricultural and forestry land for purposes other than agricultural or forestry production;

b) Failure on the part of owners to declare to county land cadastre organs, within 30 days from approval, land changes and changes in land use category, as well as data regarding areas and their use category;

c) Failure on the part of land owners and persons authorized to maintain geodesic and topographic fiducials, metal level markers, pyramids and markers for geodesic references, to maintain them in good condition, as well as wilfully damaging and destroying them;

d) Failure on the part of investment users to remove fertile soil covers before situating facilities, failure to deposit this soil cover on areas established by agricultural organs, as well as failure to improve and level the areas left behind after the excavation of coal, kaolin, clay, gravel, or at abandoned wells and so on;

e) Situating facilities of any kind, except for those stipulated in article 71 of the present law, on land located outside the boundaries of a locality, without the notification and approvals stipulated by law;

f) Occupying and using land approved for permanent or temporary removal from agricultural production, before it has been defined, fenced, and transferred;

g) Damaging land and crops by depositing materials or wastes of gravel, mud, sand, prefabricated items, metal constructions, residues, household waste, garbage, and so on;

h) Failure on the part of legal entities or persons to take appropriate steps to protect neighboring land against the effects of any type of residue drainage from production activities.

Article 89. The contraventions stipulated in article 88 of the present law are penalized as follows:

a) Those of letters a) through c), with a fine of 10,000 to 20,000 lei;

b) Those of letters d) through h), with a fine of 20,000 to 50,000 lei.

Article 90. Penalties can also be applied to legal entities.

In addition to the circumstances stipulated by the law, penalties will also consider the area, the use category, and the fertility class of the land in question.

Article 91. Contraventions are determined and penalties are applied by specialists authorized for the purpose by the Ministry of Agriculture and Food and the Ministry of the Environment, by deputies of prefectures and of county and the Bucharest Municipality agricultural and forestry organs, as well as by mayors.

The determination of the contravention reestablishes the previous situation and support of damages by guilty parties.

Article 92. To the extent to which the present law does not stipulate otherwise, the contraventions indicated in article 88 are not subject to the provisions of Law No. 32/1968 regarding the Determination and Penalization of Contraventions.

Chapter IX

Transitional and Final Provisions

Article 93. Within 30 days from the effective date of the present law, commune, city, and municipal commissions formed according to article 11, will perform the work and operations assigned to them by law, forwarding all documents to county commissions for issuing property titles for the situations stipulated in articles 8, 14, 15, 16, article 18, paragraphs 1 and 2, articles 20, 21, 22, 23, 24, 25, 28, 32, 35, 38, 39, 40, 41, and 95, as well as the operations necessary to deliver possession of the land.

At the same time, for the situations stipulated in article 18, paragraph 3, commune, city, and municipal commissions will establish the areas to be allocated for use, and town halls will issue decisions in that respect.

In the cases stipulated in article 16, article 29, paragraph 2, and article 36, county commissions at the proposal of commune, city, and municipal commissions, will issue decisions for those entitled in order to establish their rights to shares.

Decisions of county commissions will be transmitted to interested persons and commercial companies within the deadline stipulated in paragraph 1.

Commune, city, and municipal commissions cease their activities by prefecture decision, while county commissions and the Bucharest Municipality commission cease their activities by government decision.

Article 94. During the operation period of commune, city, and municipal commissions, and of liquidation commissions, members of these commissions who are employed through work contracts are considered delegates, and other commission members are paid at a rate to be established by the law's application regulation.

Article 95. The specialized personnel stipulated in article 8 of the Decree-Law No. 43/1990 regarding Measures to Encourage the Peasantry and the Economic Activities of Cooperative and State Agricultural Units, who has conducted its activities in cooperative agricultural units that have been eliminated or reorganized into commercial companies, receive priority to the provisions of article 18, paragraph 1, or article 20 of the present law.

Article 96. Historical monuments, archeological relics and objects, and treasures that are discovered on the surface of the ground or underground, fall under the protection of the law.

Land owners and holders must assure the integrity of the land, notify state organs, and allow the pursuit of research and conservation work.

Land owners will be reimbursed with money or with equivalent land, for damages and for land acquired into the public domain.

Article 97. Individuals who have gained or regained property rights under the provisions of the present law, as well as private associations that will be formed according to article 28, paragraph 1 of this law, are exempt from agricultural land taxes for a period of three years, beginning with 1991.

The system of taxes, credits, as well as other advantages obtained by individuals or legal entities which have been given property rights under the conditions of the present law, as well as the pensions of former members of agricultural production cooperatives, will be regulated through special laws.

The time worked by former cooperative members in agricultural production cooperatives is considered work seniority for pension and for other social security purposes.

Article 98. Within 60 days from the effective date of this law, the government will present to Parliament a draft law regarding the General Land Cadastre and Housing Publicity, as well as the draft laws stipulated in article 97, paragraph 2.

Until the new law becomes effective, current regulations will apply regarding the land cadastre and housing publicity.

Article 99. Production expenses for 1991, spent on land allocated according to the present law until the date of possession, will be supported by the new land owners, or by the land users, depending on circumstances.

Article 100. General land cadastre activities, geodesic, photogrammetry, and territorial organization projects, as well as the data banks associated with them at county or national level, will be financed from the budget.

Article 101. Appendixes 1 and 2 are an integral part of the present law.

Article 102. The present law becomes effective on the date of its publication in MONITORUL OFICIAL AL ROMANIEI.

On the effective date of this law, the following are canceled:

Articles 1-36 and 51-79 of Law No. 59/1974 regarding the Land Fund, published in BULETINUL OFICIAL No. 138 of 5 November 1974.

Decree-Law No. 42/1990 regarding Measures to Encourage the Peasantry, published in MONITORUL OFICIAL No. 17 of 30 January 1990, except for articles 8-11.

Law No. 9/1990 regarding a Temporary Ban on Land Transfers by Living Deed, published in MONITORUL OFICIAL No. 95 of 1 August 1990, except for article 2.

HCM (Decision of the Council of Ministers) No. 665/1975 to Establish and Penalize Contraventions to Regulations Regarding the Recording, Utilization, Protection, and Improvement of Agricultural Land, published in BULETINUL OFICIAL No. 74 of 16 July 1975.

Decree No. 115/1959 to Eliminate the Remains of Any Form of Exploitation of Man By Man in Agriculture, With the Aim of Steadily Improving the Material and Cultural Standard of Living of the Working Peasants, and for Developing the Socialist Construction, published in BULETINUL OFICIAL OF THE GREAT NATIONAL ASSEMBLY OF THE ROMANIAN SOCIALIST REPUBLIC, No. 10 of 30 March 1959.

Any other provisions contrary to the provisions of the present law.

This law was adopted by the Senate at its 14 February 1991 session.

President of the Senate Academy Member, Alexandru Birladeanu

This law was adopted by Assembly of Deputies at its 14 February 1991 session.

President of the Assembly of Deputies, Martian Dan

Based on article 82, letter m) of the Decree-Law No. 92/1990 to Elect the Parliament and the President of Romania,

We announce the Law on Land Resources and order its publication in MONITORUL OFICIAL AL ROMANIEI.

President of Romania, Ion Iliescu

Bucharest, 19 February 1991

Appendix 1

Tax due for permanent removal of land outside the boundaries of a locality from agricultural use.

Percent tax applied to sale price [figures as published]:

Agricultural class 1: 800

Agricultural class 2: 800

Agricultural class 3: 700

Agricultural class 4: 600

Agricultural class 5: 500

Note: The percentage applies to the land value declared as price by the parties in the transfer contract.

If the value declared by the parties is lower than the normal market value of the land, calculated by multiplying by 25 the taxable annual income derived from the land, the percentage is calculated on the value thus established.

The tax is calculated in the same manner if the land had not been transferred.

Appendix 2

Tax due for permanent use of forestry land for purposes other than forestry production and forest clearing

Percent tax applied to sale price [figures as published]:

Quality class 1: 600

Quality class 2: 550

Quality class 3: 500

Quality class 4: 400

Quality class 5: 300

The percentage applies to the income value established for the volume achieved from exploitation of the basic species of the region, considered as the goal variety, established by improvement or compared to it.

Serbian Law on State of Emergency Measures

91BA0590B Belgrade SLUZBENI GLASNIK in Serbo-Croatian 29 Mar 91 p 636

["Text" of the Serbian Law on State of Emergency Measures decreed by Serbian President Slobodan Milosevic on 28 March]

[Text] 144

On the basis of article 83, point 3, of the Constitution of the Republic of Serbia, I enact a

DECREE ON THE LAW ON STATE OF EMERGENCY MEASURES

The Law on State of Emergency Measures, which was enacted by the National Assembly of the Republic of Serbia at the third session of the first regular meeting on 28 March 1991, is proclaimed.

Regulation No. 14 in Belgrade, 28 March 1991

Signed: Slobodan Milosevic, president of the Republic

LAW ON STATE OF EMERGENCY MEASURES

Article 1. The president of the Republic, at the proposal of the government, proclaims a state of emergency and passes acts for taking steps to eliminate this state, in accordance with the Constitution and the law.

Article 2. It is considered that the conditions have been met for the proclamation of a state of emergency on part of the territory of the Republic of Serbia when activities are undertaken that threaten: constitutional order, the security of the Republic, its sovereignty, independence and territorial integrity, performing economic and social activities, achieving and protecting the freedom, rights and duties of man and the citizen and the work of state organs.

A state of emergency can also be proclaimed in the case of extreme catastrophes and other general dangers to the lives of citizens.

Article 3. The proposal of the government for the proclamation of a state of emergency contains an assessment of the threat in accordance with article 2 of this law, the consequences that have arisen because of it or can arise and the means of eliminating the state of emergency.

The proposal of the government also contains a proposal of an act for taking steps to eliminate the state of emergency.

At the same time the government will submit the proposal for the proclamation of a state of emergency to the president of the National Assembly.

Article 4. When the president of the Republic accepts the proposal of the government, he will make a decision about the proclamation of a state of emergency.

By decision under paragraph 1 of this article, the territory of the Republic of Serbia is determined on which the state of emergency is proclaimed.

The decision on the proclamation of a state of emergency is announced in accordance with the law and is submitted at the same time to the National Assembly and the government.

The National Assembly meets without being summoned when the president of the Republic proclaims a state of emergency.

Article 5. The president of the Republic issues orders and other acts for taking steps to eliminate the state of emergency in accordance with the Constitution and the law.

By acts under paragraph 1 of this article, measures are prescribed that are determined by law, depending on the circumstances and the causes that led to the state of emergency, so that with their implementation in the shortest possible time and with the fewest possible harmful consequences, the elimination of the state of emergency is assured.

Article 6. The president of the Republic, by acts under article 5 of this law, can: confirm the obligation to work; limit the freedom of movement and residence; limit the right to strike; limit the freedom of assembly and other gatherings; limit the freedom of political, trade union, and other activities. The president of the Republic can also determine other measures in accordance with the law.

The National Assembly prescribes the means of realizing individual freedoms and rights of citizens under conditions of a state of emergency.

Article 7. Acts under article 5 of this law are announced in accordance with the law and submitted to the president of the National Assembly and the government.

Article 8. The rights and obligations that, in the case of specified emergency conditions or an established state of emergency in accordance with the Constitution of the SFRJ and federal regulations, are realized by the presidencies of the republics, are realized by the president of the Republic in the Republic of Serbia.

Article 9. Citizens and their organizations, enterprises, institutions and other organizations, state and other organs, on the territory on which the state of emergency has been proclaimed, are required to take steps during the state of emergency within the framework of their rights and duties, or jurisdictions, in accordance with the orders and other acts of the president of the Republic, the decisions of other authorized organs, and the circumstances that have arisen.

Article 10. When the circumstances which caused the state of emergency have been proclaimed over, the president of the Republic, at his initiative, or at the proposal of the government, renders a decision by which the end of the state of emergency is proclaimed and informs the National Assembly and the government about this.

With the rendering of a decision on the end of the state of emergency, orders and other acts issued for the undertaking of the prescribed measures cease to be valid.

The president of the Republic can declare certain orders and other acts under paragraph 1 of this article to be invalid even before a decision is made on the proclamation of the end of the state of emergency.

Article 11. On the part of the territory of the Republic of Serbia on which special circumstances are proclaimed before this law goes into effect, measures determined by special regulations are implemented, and other measures prescribed by the National Assembly can also be introduced.

Measures under paragraph 1 of this article are implemented until the National Assembly decides otherwise.

Article 12. This law goes into effect on the eighth day after the day of publication in SLUZBENI GLASNIK OF THE REPUBLIC OF SERBIA.

Serbian Law on Public Media

91BA0590A Belgrade SLUZBENI GLASNIK in Serbo-Croatian 29 Mar 91 pp 633-636

["Text" of Decree on the Law on the Public Media enacted by Serbian President Slobodan Milosevic on 28 March]

[Text] 143

On the basis of article 83, point 3, of the Constitution of the Republic of Serbia, I enact a:

DECREE ON THE LAW ON THE PUBLIC MEDIA

The Law on the Public Media, which was enacted by the National Assembly of the Republic of Serbia at the third session of the first regular meeting on 28 March 1991, is proclaimed.

Regulation No. 16 in Belgrade, 28 March 1991

Signed: Slobodan Milosevic, president of the Republic

LAW ON THE PUBLIC MEDIA

I. BASIC REGULATIONS

Article 1. The public media are free.

All physical and legal entities have the right to participate in the public media.

Article 2. The public media comprise the press, radio and television programming, the news agency, and audio-visual and other means of public media (in the following text, the public media).

Article 3. The republic and its territorial units, in accordance with its laws and obligations, guarantee conditions for informing citizens through the public media.

Article 4. The public media are not subject to censorship.

Article 5. The founder of an organization of the public media that is financed from public revenues confirms, through an act of founding, the nonparty conception of the program orientation, the organization, the financing, the methods of administration and election of directors and the principal editor and editor in chief, and other relations between the founder and the public media, reviews a yearly report on the work and the work program, follows the establishment of program orientation and makes decisions on halting the work of the public media.

When an organization of the public media has more than one founder, organizations under paragraph 1 of this article mutually determine the means of carrying out their rights and obligations.

Article 6. The radio frequency spectrum, or radio frequencies and TV channels in the Republic of Serbia, are limited natural resources and are utilized for the transmission and broadcasting of radio and TV programs under conditions governed by law.

The government of the Republic of Serbia administers the radio frequency spectrum at the disposal of the Republic of Serbia.

II. OPERATION AND CESSATION OF OPERATION OF THE PUBLIC MEDIA

Article 7. Public media can begin with issuance and work along with a listing in the register of the public media (in the following text, the register), which is administered by the republic organ responsible for matters of the media.

The register under paragraph 1 of this article contains the following information: personal name or title, residence or site of the founder and the issuer, type of public media, personal name of principal editor and editor in chief, name and address of printing firm and the personal name and address of the person who is authorized to submit the registration form for listing in the register and information on the appropriate permits in accordance with the special law when radio and television programming is registered.

Along with a registration form for listing in the register, proof of information under paragraph 2 of this article is also submitted.

Article 8. Two public media with the same name may not be listed in the register.

Article 9. The republic organ responsible for media affairs, which maintains the register, is obligated to render a decision on a listing in the register and to inform the founder about it within 15 days of the day of the receipt of the registration form and of all proof of the information under Article 7, paragraph 2, of this law.

If the republic organ responsible for media affairs does not inform the founder about the listing in the register within the time specified in paragraph 1 of this article, it will be considered that the public medium is listed in the register.

Article 10. A public medium is obligated to inform the republic organ reponsible for media affairs about any

change in the information under Article 7 of this law or about the cessation of operation within five days of the change so that the change can be listed in the register.

III. RESPONSIBILITY IN THE PUBLIC MEDIA

Article 11. The founder is responsible for the overall program orientation and the editorial policy of the public media, which may not be directed toward the violent disruption of the constitutionally established order, destruction of the territorial totality and the independence of the Republic of Serbia, violation of the constitutionally guaranteed freedoms and rights of man and citizen, or the evoking and support of national, racist and religious intolerance and hatred.

The principal editor and editor in chief are responsible for carrying out the determined program orientation and editorial policy for all information reported, except in a case where the information is reported at the request of an authorized state organ.

The person who gives information, or the author, is responsible for the veracity of the information given or reported.

All state organs and legal entities are obligated to give information about their work, which is of interest to the public, to all the public media, except where information that by law represents state, official, or business secrets is involved.

Article 12. The functions of the principal editor and the editor in chief can be separate.

If a public medium has more than one editor in chief, or more than one editor, they are responsible for the information that they direct.

Article 13. The public media are required to inform the public truthfully. Public media that are financed from public revenues are required to inform the public promptly and impartially.

If a public medium reports untrue information through which the reputation or the interest of the legal or physical entity to which the information relates is destroyed, or through which the honor or the integrity of the individual is harmed, or if untrue information about his life, knowledge, and capabilities is quoted or transmitted, or his dignity is harmed in some other manner, the legal or physical entity affected has the right to sue, in the court having jurisdiction for recovery of damages, the founder, issuer, principal editor or editor in chief, and the author of the information.

The jurisdictional court is required to render a judgment in connection with a lawsuit under the previous paragraph no later than 30 days from the day the charges are brought.

Article 14. On every copy of a publication, or other type of public medium, the following must be designated: name or title and address of the founder and publisher, surname and given name of the director, principal editor and editor in chief, place and date of publication, or reproduction, as well as the title and address of the printing firm.

On radio and television programs, the following must be designated: the name of the radio and television organization, the title of the program, and the surname and given name of the editor in chief.

Article 15. Journalists, in carrying out their duties, are required to adhere to the law and ethics in journalism (the journalists' codex).

The rights and obligations of reporters in carrying out their functions for the public media are directed by the founder's act and statute.

Article 16. A printing firm or publisher in the public media is required to deliver a copy of every printed item immediately after publication to the appropriate prosecutor and the republic organ responsible for public media matters.

Article 17. A reporter is required, upon request, to produce for review, to the person who makes a statement, the text of that statement prepared for reporting and may not report it if this person does not agree with it because of changed content.

Article 18. If the principal editor or editor in chief significantly changes the meaning of a text that a reporter has submitted for reporting, the agreement of that reporter is necessary for the material to be reported under his name.

Article 19. The Union of Reporters of Serbia establishes the criteria for acquiring the status of journalist, as well as for the beginning and ending of the journalist's career.

IV. PREVENTION OF THE DISTRIBUTION OF PRINTED MATTER AND DISSEMINATION OF INFORMATION IN THE PUBLIC MEDIA

Article 20. The distribution of printed matter and the dissemination of information in the public media can be prevented only by decision of the jurisdictional court if it is established that they call for the violent destruction of the constitutionally established organization, the destruction of the territorial totality and the independence of the Republic of Serbia, the violation of the guaranteed freedoms and the rights of man and citizen, or if hatred is provoked, or if nationalist, racist, or religious intolerance is supported.

The temporary decision on the prevention of the distribution and of printed matter and the dissemination of information in the public media is made by the jurisdictional court at the proposal of the public prosecutor within 12 hours after the suggestion is received.

Article 21. The jurisdictional court is required to immediately provide the founder and the principal editor and the editor in chief, or the printing firm with its decision on the temporary halt to the distribution of printed material and dissemination of information through the public media with an order that no printed material be

distributed, or information disseminated by other means, until the effective court decision is made.

The court orders the appropriate organ for internal affairs to withdraw all copies of the printed material or other types of public media temporarily and submit it to court custody or seal.

Article 22. At the proposal of the public prosecutor for pronouncing the ban on distributing printed material and disseminating information through the public media, the court will hold a hearing within three days of the day of receiving the proposal.

Article 23. In the procedure based on the proposal for pronouncing a ban on the distribution of printed material and the dissemination of information through the public media, the court can hold a hearing and render a decision even if the duly summoned parties have not come to the hearing. The parties summoned to the hearing shall be expressly warned of this.

Article 24. If the court rejects the proposal for pronouncing a ban on the distribution of printed material and the dissemination of information by other public media, or rescinds the decision on a temporary ban, it will determine that all copies of the printed material or other public media that have been withdrawn or sealed shall be returned or unsealed within 12 hours.

The complaint of the public prosecutor against the court decision under paragraph 1 of this article does not postpone the carrying out of the decision.

Article 25. If the court rejects the proposal for the pronouncing of a ban, it is also required to determine the amount of monetary compensation for damages because of the unfounded temporary ban. The compensation is to be paid no later than 30 days after the completion of the court procedure.

Article 26. A decision based on the proposal for pronouncing a ban on the distribution of printed material and the dissemination of information by other public media shall be made by the court immediately after the completed hearing, and the president of the council will announce it without delay. The decision must be put in writing and a certified copy submitted to the parties in the procedure within three days of the day of its announcement.

Article 27. As a result of the decision of the court of original jurisdiction, which rules on the proposal of the public prosecutor for the pronouncement of a ban on the distribution of printed material and the dissemination of information by other public media, the parties can file a complaint in the jurisidictional appellate court within three days of the submission of the copy of the decision.

The complaint is not submitted for reply.

The court of first jurisdiction will submit the prompt and approved complaint together with all documents to the appellate court within two days of the day the complaint is received.

The appellate court may summon and listen to the parties.

The appellate court is required to decide on the complaint within three days of the day the complaint, accompanied by the documents, is received.

A complaint against the decision of the appellate court is not permitted.

Article 28. If it is not otherwise specified under this law, appropriate regulations of the Law on Criminal Procedure are applied accordingly in the procedure regarding the proposal for pronouncing a ban on distributing printed material and disseminating information through the public media.

V. REPORTING OF AN ANNOUNCEMENT, A REPLY, AND A CORRECTION

Article 29. Public media financed from public revenues are required, at the request of the appropriate state organ, to report, without delay, an announcement about facts whose reporting is of an urgent nature and of special importance for citizens, and relates to a danger to the lives and health of people, their property, or defense and security.

Article 30. The principal editor and editor in chief is required to report a reply to the reported information under which every informational content (hereafter: information) is assumed, if the facts and figures are supplemented by it as to truthfulness and completeness.

The reply may not be longer in volume than the reported information.

It is not permitted to comment on the reply in the same issue of the publication or in the same broadcast.

Article 31. The principal editor and editor in chief is required to report a correction of untrue or insulting reported information by which someone's right, reputation or interest is harmed.

The correction must be reported without changes or additions, on the same page of the publication or in the same TV or radio broadcast in which the information under paragraph 1 of this article, to which the correction pertains, was reported, and in the first, or, at the latest, the second succeeding issue of the publication or in the first, or, at the latest, the second succeeding broadcast of the radio and television program following receipt of the correction.

It is not permitted to comment at the same time on the correction of the reported information.

Article 32. If the principal editor or editor in chief refuses to report a correction of false information by which someone's right or interest is harmed, or does not report it in the manner and within the time period prescribed by this law, or if he reports a commentary on the correction at the same time, the submitter of the correction has the right to file a complaint against the principal editor and editor in chief in the jurisdictional

court in whose area the headquarters or residence of the submitter of the correction is located.

The authorized court is required to make a ruling on the complaint no later than 15 days from the day the complaint is received.

Article 33. A radio-television organization must keep the notes on the information from broadcasts at least eight days after the broadcast and, upon the demand of interested parties that have the right to make a correction, is required to present them for review with the aim of realizing the rights designated by law.

If the interested party announces, within the time period under paragraph 1 of this article, that he will demand a correction, the radio-television organization must keep the notes for which a correction is demanded for 30 days from the day of the reporting of the information or until the procedure for reporting the correction is completed.

VI. AUTHORIZING ORGANS FOR PROCEEDING ACCORDING TO FEDERAL REGULATIONS

Article 34. The introduction of foreign printed materials for distribution and the distribution of foreign printed materials and other types of public media, the reproduction of printed materials for the use of a foreign customers and performing foreign media activities in the Republic of Serbia are to be carried out in accordance with the federal Law on the Introduction and the Distribution of Foreign Mass Media and on Foreign Media Activities in Yugoslavia and with this law.

Article 35. The republic organ reponsible for media affairs grants approval to:

1. a printing firm for printing foreign printed materials on the basis of article 12, paragraph 1, of the federal Law,

2. an importer for the introduction and distribution of foreign printed materials on the basis of article 7 of the federal Law,

3. foreign legal parties and individuals for the making of television and other informational films on the basis of article 16 of the federal Law.

Article 36. The republic organ responsible for media affairs makes a decision on:

1. the prohibiting of broadcasts by radio or television of foreign video and audio materials on the basis of article 59, paragraph 1, point 2, of the federal Law,

2. the prohibiting of the introduction, distribution and public reproduction of materials under article 22 of the federal Law and on the basis of article 59, paragraph 1, point 3, of the federal Law.

VII. SUPERVISION

Article 37. The republic organ for media affairs carries out supervision of the implementation of regulations of this law.

VIII. PENAL REGULATIONS

Article 38. A radio-television organization will be punished for a violation with a fine of up to 100,000 dinars if it does not provide the notes about broadcast material for review by interested parties (article 33).

Both the principal editor and the editor in chief will be punished with a fine of up to 10,000 dinars for a violation committed under paragraph 1 of this article.

Article 39. A publisher or a printing firm will be punished for a violation with a fine of up to 100,000 dinars if it does not submit a copy of each printed item to the authorized public prosecutor and the republic organ responsible for media affairs (article 16).

The responsible person at the publisher's or at the printing firm will also be punished with a fine of up to 10,000 dinars for a violation committed under paragraph 1 of this article.

If, under paragraph 1 of this article, the distribution of printed material is prohibited, the publisher or the printing firm will be punished for a violation with a fine of 80,000 to 100,000 dinars.

In the case under paragraph 3 of this article, the responsible person at the publisher's or at the printing firm will be punished for a violation with a fine of up to 10,000 dinars.

In the case under paragraph 3 of this article, the material gain achieved through the distribution of printed material will be confiscated.

IX. TRANSITIONAL AND FINAL REGULATIONS

Article 40. The director of the republic organ responsible for media affairs will issue a list of regulations about maintaining the register of public media.

Article 41. The public media will coordinate their organization and acts with the regulations of this law within six months of the day this law goes into effect.

Article 42. On the day this law goes into effect, the following will no longer be valid: the Law on the Public Media, except the regulations in articles 31 through 36 and 38 through 46 and article 83 (SLUZBENI GLASNIK OF THE FEDERAL REPUBLIC OF SERBIA, No. 6/90), the regulations in article 33, paragraph 1, point 6 of the Law on Personal Work (SLUZBENI GLASNIK OF THE FEDERAL REPUBLIC OF SERBIA, No. 54/89 and 9/90), the Law on the Public Media of the Socialist Autonomous Province of Vojvodina (SLUZBENI LIST OF THE SOCIALIST AUTONOMOUS PROVINCE OF VOJVODINA, No. 29/89), the Law on the Public Media of the Socialist Autonomous Province of Kosovo (SLUZBENI LIST OF THE SOCIALIST AUTONOMOUS PROVINCE OF KOSOVO, No. 32/88) and regulations passed on the basis of this law.

Article 43. This law goes into effect on the eighth day from the day of publication in SLUZBENI GLASNIK OF THE REPUBLIC OF SERBIA.